

EXHIBIT D

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<p style="text-align: right;">Page 6</p> <p>1 deposition. I asked for your deposition in 2 connection with your role in formulating the 3 Sexual Misconduct Policy at Saint Joe's 4 University that came to effect in 2015 and in 5 connection with your role with respect to a 6 grant application submitted by Saint Joe's to 7 the Office of Violence Against Women, the 8 Justice Department, and some related issues. 9 I also asked for your 10 deposition in connection with your role in 11 policies and procedures as to the 12 investigation and adjudication of sexual 13 misconduct claims against students and 14 nonstudents. Finally, I'm sure I'll cover 15 some other areas that come up with some other 16 testimony and also with respect to your role 17 in John Doe's appeal. 18 For purposes of the deposition, 19 are you aware of who John Doe actually is? 20 A. Yes. 21 Q. So the use of John Doe will 22 not -- you will be able to answer the 23 questions. Same with respect to the 24 Complainant, Jane Roe?</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. PICCERILLI: Let me just 2 let the witness know exactly what we're doing. 3 --- 4 (Whereupon, a discussion was held off 5 the record.) 6 --- 7 BY MR. MIRABELLA: 8 Q. A deposition is a series of 9 questions and answers taken under oath. My 10 questions are transcribed, your answers are 11 transcribed. Anything you saw now may be used 12 in the trial of the case, they may be read to 13 the Jury, whole or in part. As such, don't 14 answer my questions if you're not clear of the 15 question or you're not sure what I'm asking. 16 Well, you should not guess in 17 response to questions, you should, when 18 possible, point to a reference material or 19 estimate an answer, just state that on the 20 record. 21 I will frequently, if the 22 answer is I don't know or I don't remember, 23 ask you to follow up with your best 24 recollection or your best estimate or</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Correct. 2 Q. All right. The practice has 3 been if anybody slips up, witness or 4 questioner, even though the transcript is 5 confidential, we'll try to stop and point it 6 out and correct it to get it off the 7 transcript. 8 Same with respect to the 9 investigation of other cases, if any of the 10 questions call for discussions of other 11 investigations, cases and what not, please 12 know in advance I don't want you to identify a 13 student. And if I do want a student's 14 identity your Counsel will let you know if 15 it's appropriate and I'll specifically ask. 16 There may come up some 17 questions about a sports team in which there 18 were allegations of misconduct that were 19 handled through the Community Standards Office 20 and under the Sexual Misconduct Policy, if I 21 refer to as the sports team rather than 22 anything more than that, do you know generally 23 what I'm referring to? 24 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 something of that nature. 2 Also, I'm going to be asking 3 you questions in areas that have already been 4 covered by other witnesses. It's part of the 5 discovery process. And I don't want to 6 belabor your deposition, but there are some 7 areas where there's overlapping 8 responsibilities and supervisory roles. So I 9 may, you know, get back into it in some way. 10 Have you ever given a 11 deposition before? 12 A. No. 13 Q. Okay. In preparation for this 14 deposition, other than communications with 15 Counsel, did you have an opportunity to review 16 any of the paper records in this case? 17 By paper records I mean other 18 depositions, the complaint filed by John Doe 19 or any aspects of the Community Standards and 20 the outside investigator's investigation? 21 A. No. 22 Q. Have you looked at any 23 documents or done any research in connection 24 with your preparation for this deposition?</p>

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<p style="text-align: right;">Page 10</p> <p>1 MR. PICCERILLI: Other than 2 with Counsel. 3 THE WITNESS: No. 4 MR. MIRABELLA: And that's with 5 the Federal Court Work Product Privilege? 6 MR. PICCERILLI: Yes. 7 BY MR. MIRABELLA: 8 Q. All right. Dr. White, I don't 9 believe I've seen your Resume or C.V. I would 10 like to ask you some general questions about 11 your education background and training. 12 Can you tell me your 13 undergraduate experience? 14 A. I attended Saint Joe's 15 University from 1999 to 2003. Graduated with 16 a degree in sociology. 17 Q. And where did you receive 18 additional degrees or education? 19 A. I attended Saint Joseph's 20 University for a Master's in Science, 21 organizational development, training in 22 organizational development from 2004 to 2006. 23 I then I attended Saint 24 Joseph's University for my Doctorate in</p>	<p style="text-align: right;">Page 12</p> <p>1 campus safety. 2 Q. Do you know how long it's been 3 in effect? 4 A. There's been several iterations 5 of it. I don't recall offhand the specific 6 date that it was enacted. It started with 7 global efforts by the Clery family and moved 8 from local to state to federal. 9 Q. In addition to your formal 10 educational background, do you have any other 11 degrees or certifications? 12 A. No. 13 Q. Can you describe your 14 employment experience since graduating from 15 Saint Joe's? 16 A. Sure. I worked at Temple 17 University from 2003 to 2004 in Student 18 Activities. And then in 2004 I returned to 19 Saint Joseph's University as the 20 Administrative Assistant in, at the time I 21 believe it was called the Student Judicial 22 Office. A few months later I moved on to -- I 23 was promoted to the Coordinator of Student 24 Discipline within that same office, and I</p>
<p style="text-align: right;">Page 11</p> <p>1 educational leadership from 2009 to 2013. 2 Q. And did you obtain a Doctor of 3 philosophy? 4 A. No, a Doctor of Education, Ed.d 5 Q. And what was the focus of your 6 study for your Ph.D.? 7 A. My dissertation focus for my 8 Ed.D was the Clery Act, ethical commitment to 9 campus safety. 10 Q. Twice I referred to it as a 11 Ph.D. There is no higher educational degree 12 than a Ed.D.; am I correct? 13 A. Correct. 14 Q. All right. And while I was 15 thinking about how to rephrase my question I 16 didn't get your last answer. The focus of 17 your dissertation? 18 A. My focus was campus safety in 19 the Clery Act. 20 Q. For someone who is not involved 21 in university life, what is the Clery Act or 22 how would you describe it? 23 A. Clery Act is a Federal law that 24 provides guidance and regulations related to</p>	<p style="text-align: right;">Page 13</p> <p>1 served in that role from about 2004 to 2007. 2 In 2007 I changed roles within 3 Saint Joseph's to the Assistant to the Vice 4 President for Student Life and was also the 5 NASPA Journal Editorial Assistant. I held 6 that role for two years. 7 And then in 2007 to 2009 I 8 served as an Assistant to the Vice President 9 for Student Life still, and the Director of 10 Community Standards, which is our student 11 conduct office. 12 And then in 2009 I was promoted 13 to the Assistant Vice President for Student 14 Life. That's the position that I'm currently 15 serving. 16 Q. Initially I wrote down 17 Assistant to Vice President of Student Life in 18 2007? 19 A. Right. 20 Q. It's 2009; correct? 21 A. Yes, I'm sorry, my timing is 22 off. 2007, I apologize for this, 2007 -- I've 23 held several roles at Saint Joseph's, I'm 24 sorry. So let me just have a moment to think</p>

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<p style="text-align: right;">Page 14</p> <p>1 about this.</p> <p>2 In 2013 is when I was the</p> <p>3 Assistant Vice President for Student Life. So</p> <p>4 I served in that role since 2013 upon</p> <p>5 completion of my Doctoral degree.</p> <p>6 Does the timeline make sense</p> <p>7 now? Did that fill in the gaps?</p> <p>8 Q. A little bit. Let me go back.</p> <p>9 A. I'm so sorry.</p> <p>10 Q. No worries. So in 2004 you</p> <p>11 were the Administrator of the Office of</p> <p>12 Student Judicial Discipline?</p> <p>13 A. I believe it was called</p> <p>14 Judicial Affairs or Student Discipline, yes.</p> <p>15 Q. And then you state in 2004 to</p> <p>16 2007 you were the Coordinator of Student</p> <p>17 Discipline?</p> <p>18 A. Yes, correct.</p> <p>19 Q. Is that office, the Office of</p> <p>20 Student Discipline, functionally analogous to</p> <p>21 the Office of Community Standards?</p> <p>22 A. Yes.</p> <p>23 Q. And as the Coordinator of</p> <p>24 Student Discipline from 2004 to 2007, what</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Can you just clarify? Are you</p> <p>2 talking specifically about all student conduct</p> <p>3 processes?</p> <p>4 Q. Yes.</p> <p>5 A. So generally it remained the</p> <p>6 same. The sexual misconduct process, there</p> <p>7 was a change there from the time that I was</p> <p>8 Coordinator of Student Discipline to what you</p> <p>9 asked in terms of my current role.</p> <p>10 Q. I'll clarify.</p> <p>11 MR. PICCERILLI: Yes, I think</p> <p>12 you have the dates a little mixed up.</p> <p>13 BY MR. MIRABELLA:</p> <p>14 Q. 2015 Saint Joe's adopted the</p> <p>15 interim Sexual Misconduct Policy; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And we'll treat that as January</p> <p>18 of 2015. And before, as of December of 2014,</p> <p>19 was the process in place, not identical, but</p> <p>20 similar to the process that you were working</p> <p>21 with when you were the Director of Student --</p> <p>22 Coordinator of Student Discipline from 2004 to</p> <p>23 2007?</p> <p>24 A. Specifically what process are</p>
<p style="text-align: right;">Page 15</p> <p>1 were your responsibilities?</p> <p>2 A. My main responsibility was</p> <p>3 overseeing what is called our Peer Review</p> <p>4 Board, which is a group of students who hear</p> <p>5 cases, our low-level cases. I also from time</p> <p>6 to time would serve as a hearing officer.</p> <p>7 Q. So during the 2004 to 2007</p> <p>8 period, the Office of Student -- Coordinator</p> <p>9 of Student Discipline, did that office oversee</p> <p>10 the investigation and adjudication of claims</p> <p>11 of sexual misconduct?</p> <p>12 A. Yes.</p> <p>13 Q. And you mentioned that you both</p> <p>14 oversaw the Peer Review Board and also sat as</p> <p>15 a hearing officer; correct?</p> <p>16 A. Correct.</p> <p>17 Q. Before I spend a lot of time</p> <p>18 on, too much time, a reasonable amount of time</p> <p>19 on your role as to how that office functioned,</p> <p>20 did that process change in terms of</p> <p>21 adjudication of student misconduct or was that</p> <p>22 pretty much the same process that was in place</p> <p>23 until you became the Assistant to the Vice</p> <p>24 President in 2009?</p>	<p style="text-align: right;">Page 17</p> <p>1 you speaking of?</p> <p>2 Q. Oh, for Community Standards</p> <p>3 violations, misconduct.</p> <p>4 A. Yes.</p> <p>5 Q. Including claims of sexual</p> <p>6 misconduct?</p> <p>7 A. Yes, I believe so.</p> <p>8 Q. So there's a big change in</p> <p>9 2015?</p> <p>10 A. Correct.</p> <p>11 Q. But from 2004 to the end of</p> <p>12 2014, while there might have been changes, the</p> <p>13 process was for the most part the same process</p> <p>14 that was in place?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Can you describe for me</p> <p>17 generally then what the process was like, and</p> <p>18 you don't have to go back to 2004 and 2005</p> <p>19 when we talk the process that was in place in</p> <p>20 2014, if a student or staff member was accused</p> <p>21 of sexual misconduct?</p> <p>22 A. There would be a report, and</p> <p>23 that could come from multiple sources and</p> <p>24 could be reported to many entities and</p>

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<p style="text-align: right;">Page 18</p> <p>1 institutions. Really it's whoever Complainant 2 would report to or a reporter would report 3 to. It could be Public Safety. It could be a 4 Resident Assistant to whom that report is 5 made. 6 At that point there would be an 7 investigation through our Public Safety 8 Office. A Public Safety investigator in most 9 cases would question the parties involved, 10 gather information. The information would be 11 shared with the Office of Community 12 Standards. Community Standards would then 13 initiate the process. 14 If there were any alleged 15 violations of the policy by a student 16 respondent there would then be some sort of 17 prehearing meeting. We would review items 18 pertinent to the process, answer any questions 19 about the process. There would then be a 20 hearing with the Community Standards Office, 21 could be an individual hearing officer, could 22 be a panel. 23 Q. What were the factors that 24 influenced whether it was an individual</p>	<p style="text-align: right;">Page 20</p> <p>1 investigation of student's misconduct that was 2 not set forth in the student handbook? 3 A. Any written policies that were 4 not in the handbook, no. 5 Q. Did you stay involved in, I 6 couldn't tell if you did or didn't, in student 7 discipline after you -- you were the 8 Coordinator of Student Discipline from 2004 to 9 2007? 10 A. Correct. 11 Q. And then you became the 12 Assistant Vice President -- Assistant to the 13 Vice President in 2009; correct? 14 A. 2007 to 2009 I was the 15 Assistant to the Vice President and the NASPA 16 Journal Editorial Assistant. 2009 to 2013 I 17 was the Assistant to the Vice President for 18 Student Life and Director of Community 19 Standards. And then 2013 is when I pick up as 20 the Assistant Vice President for Student Life. 21 Q. And the role of the Director of 22 Community Standards that you previously held 23 up to through 2013 is now held by Mr. Bordak? 24 A. Correct.</p>
<p style="text-align: right;">Page 19</p> <p>1 hearing officer or a panel? 2 A. If it was internal 3 administrative decision we would look to 4 availability of the panel. 5 Q. Was there a preference that the 6 more serious matters were handled by a panel 7 or it just depended? 8 A. No preference. 9 Q. All right. Going to the policy 10 that was in place, where was it memorialized, 11 in the student handbook? 12 MR. PICCERILLI: I'm sorry, 13 during what time frame? 14 MR. MIRABELLA: During the 2014 15 calendar year. 16 THE WITNESS: Yes. 17 BY MR. MIRABELLA: 18 Q. And was there any written 19 policies about the investigation and 20 adjudication of misconduct in 2014 that was 21 not in the handbook? 22 A. Can you rephrase that, please. 23 Q. Did the University have any 24 written policies about the adjudication and</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. All right. What's the journal 2 you refer to again? 3 A. The NASPA Journal. 4 Q. What's that? 5 A. The acronym stands for National 6 Association of Student Personnel 7 Administrators. 8 Q. And tell me a little bit about 9 the journal and your responsibilities. 10 A. Dr. Cary Anderson was the 11 editor during that two-year term, and so with 12 the editor position came an Editorial 13 Assistant position. So I facilitated the 14 blind peer review process for the articles 15 published in the journal. 16 Q. And what types of articles 17 would be typical for the journal? 18 A. Anything within the realm of 19 student affairs. Student affairs is the field 20 in which I work. So anything from counseling 21 to student health, student activities, et 22 cetera. 23 Q. Is somebody currently at the 24 school involved with the journal directly?</p>

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<p style="text-align: right;">Page 22</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. Is Dr. Anderson still a member</p> <p>3 of the Editorial Board?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. So he was -- was he one of many</p> <p>6 editors during that time frame when you were</p> <p>7 Assistant?</p> <p>8 A. He was the head editor.</p> <p>9 Q. And if you could, was that</p> <p>10 something that was expected to be two years in</p> <p>11 length or that was just Dr. Anderson's</p> <p>12 decision as to how long he wanted to be the</p> <p>13 editor, or something else?</p> <p>14 A. No, I believe that was the term</p> <p>15 length.</p> <p>16 Q. Does the school still receive</p> <p>17 editions of the journal?</p> <p>18 A. I believe so through</p> <p>19 membership, through the NASPA membership that</p> <p>20 institutions may have. Saint Joseph's has a</p> <p>21 membership.</p> <p>22 Q. And while Dr. Anderson was the</p> <p>23 editor of the journal, he didn't publish any</p> <p>24 pieces in the journal?</p>	<p style="text-align: right;">Page 24</p> <p>1 within that subject matter?</p> <p>2 A. Within that journal?</p> <p>3 Q. Correct.</p> <p>4 A. I don't recall specifically.</p> <p>5 Q. Fair enough. Would pieces of</p> <p>6 that, is that subject matter something that</p> <p>7 might be within the scope of that journal?</p> <p>8 A. Yes.</p> <p>9 Q. Are you published?</p> <p>10 A. No.</p> <p>11 Q. Is your dissertation</p> <p>12 published?</p> <p>13 A. Can I correct that? I</p> <p>14 co-authored a chapter in a book.</p> <p>15 Q. Sure. What's the book and what</p> <p>16 was the chapter?</p> <p>17 A. I don't recall the name of the</p> <p>18 book, I'm sorry.</p> <p>19 Q. So tell me what you remember</p> <p>20 about it.</p> <p>21 A. It was -- my part in</p> <p>22 co-authoring the chapter was from my</p> <p>23 dissertation. So it was revolving around</p> <p>24 ethical commitment to campus safety.</p>
<p style="text-align: right;">Page 23</p> <p>1 A. I don't recall.</p> <p>2 Q. Have you ever published in the</p> <p>3 journal?</p> <p>4 A. No.</p> <p>5 Q. And while you were the</p> <p>6 Assistant Editor, do you know if there were</p> <p>7 any pieces published about sexual misconduct</p> <p>8 on campus?</p> <p>9 A. I don't recall.</p> <p>10 Q. Same question as to the</p> <p>11 implication of Title IX and sexual misconduct</p> <p>12 on campus, do you recall anything like that?</p> <p>13 MR. PICCERILLI: In the</p> <p>14 journal?</p> <p>15 MR. MIRABELLA: Yes, in the</p> <p>16 journal. Not only in the journal, in the</p> <p>17 journal while she was Assistant Editor.</p> <p>18 MR. PICCERILLI: Okay, thank</p> <p>19 you.</p> <p>20 THE WITNESS: I don't recall.</p> <p>21 BY MR. MIRABELLA:</p> <p>22 Q. If not during the time period</p> <p>23 when you were Assistant Editor, do you recall</p> <p>24 any pieces -- coming across any articles</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. And can you flush that out for</p> <p>2 me a little more?</p> <p>3 A. Sure. So I looked at</p> <p>4 institutions and participants who participated</p> <p>5 in -- attendees who participated in the Clery</p> <p>6 Act training and institutions that had</p> <p>7 participants engaged in a particular training</p> <p>8 and what their level of commitment to campus</p> <p>9 safety in regards to the Clery Act was through</p> <p>10 the lens of ethic of caring as my theoretical</p> <p>11 framework.</p> <p>12 Q. I'm not going to spend a lot of</p> <p>13 time on that, but can you just explain that a</p> <p>14 little further.</p> <p>15 A. Sure. So I was really</p> <p>16 evaluating and studying people's perception of</p> <p>17 campus safety and their approach to compliance</p> <p>18 with the Clery Act. So were people looking to</p> <p>19 comply in a technical sense, meaning check the</p> <p>20 boxes and ensure that they are compliant with</p> <p>21 the Federal law, or is there a deeper moral</p> <p>22 commitment to campus safety beyond the law,</p> <p>23 the spirit of the law.</p> <p>24 Q. And what was your conclusion?</p>

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<p style="text-align: right;">Page 26</p> <p>1 A. People have a desire to do what 2 is right, and sometimes it is difficult to go 3 beyond what is just sheer compliance with the 4 law because of the complexity of the law. 5 Q. Did the dissertation touch on 6 anything about Title IX? 7 A. I don't recall specifically. 8 It's over a 300-page dissertation. 9 Q. Was it broken down into 10 sections, subparts, chapters? How did you 11 organize it? 12 A. Six chapters. 13 Q. Is it fair to say than no 14 single chapter was dedicated or committed to 15 Title IX; correct? 16 A. Correct. 17 Q. And it's possible that these 18 issues came up, but the Clery Act was the 19 focus of the paper? 20 A. Correct. 21 Q. What do you mean by Clery Act 22 training? 23 A. The Clery Center is a national 24 nonprofit founded by the Clerys and that</p>	<p style="text-align: right;">Page 28</p> <p>1 connected to your dissertation. 2 If not any formal publications, 3 have you produced any writings that you use in 4 training or that have been utilized by SJU or 5 other institutions in connection with the 6 Clery Act? 7 A. No, just my dissertation and, 8 like I said, the chapter that I co-authored 9 based on my dissertation. Otherwise, no, 10 nothing formal in terms of what's been 11 published or used. 12 Q. What about things currently in 13 use at SJU, for example, the slideshow they 14 show freshmen on campus on sexual misconduct, 15 did you have any role in that? 16 A. I facilitated a session. I was 17 one of the presenters. 18 Q. Did you have any role in 19 creating the slideshow? 20 A. I don't believe so. 21 Q. When were you a facilitator? 22 A. For the last several years. I 23 believe as long as it's been a part of the New 24 Student Orientation.</p>
<p style="text-align: right;">Page 27</p> <p>1 organization facilitates national trainings. 2 So I worked with that Center to identify 3 participants of the various Clery Center 4 trainings in terms of the participants in my 5 study. 6 Q. Have you had Clery Center 7 training? 8 A. I have. 9 Q. When? 10 A. Many times over the years. I 11 don't know that I can recall specific dates. 12 Q. Over two years or how is 13 it -- 14 A. There are ongoing webinars. 15 There are multi-day conferences. It's been a 16 variety of different modes. 17 Q. Do you do any teaching in the 18 Clery Center training? 19 A. I have done some consulting 20 with the Clery Center. I have facilitated 21 some trainings as well. 22 Q. I asked you about 23 publications. You mentioned a paper you 24 co-authored which is really part of or</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. The Clear Training Act that you 2 did periodically, do you keep a list of 3 webinars you participated in? Is there any 4 way to sort of memorialize that? Do you get 5 credit for that as some type of continuing 6 education? 7 MR. PICCERILLI: Can I hear 8 that back. 9 --- 10 (Whereupon, the court reporter read 11 back the pertinent information.) 12 --- 13 MR. PICCERILLI: Do you 14 understand the question? 15 THE WITNESS: I do. I have 16 some lists. I don't know that it's 17 comprehensive, but I have some record of 18 various webinars that I participated in. 19 BY MR. MIRABELLA: 20 Q. Does the record include 21 webinars that outside of the Clery Act? 22 A. Yes. Again, it wouldn't be 23 comprehensive, but I do have some record of 24 various trainings that I participated in.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. Are you currently the member of</p> <p>2 any professional organizations?</p> <p>3 A. Yes.</p> <p>4 Q. Can you tell me what they are?</p> <p>5 A. Sure, the NASPA Association</p> <p>6 that I just shared, the Association of Student</p> <p>7 Conduct Administrators, ASCA. We have an</p> <p>8 institutional membership, it's not a personal</p> <p>9 membership, it's an institutional membership</p> <p>10 with the Clery Center. That's all I can</p> <p>11 recall.</p> <p>12 Q. Have you ever taken any</p> <p>13 webinars or participated in any seminars with</p> <p>14 ATIXA?</p> <p>15 A. I may have. I don't recall</p> <p>16 specifically.</p> <p>17 Q. Have you ever been a member of</p> <p>18 ATIXA?</p> <p>19 A. Personally, no, I have not.</p> <p>20 Q. Have you ever been, while at</p> <p>21 Saint Joe's, been aware that SJU was an</p> <p>22 institutional member of ATIXA?</p> <p>23 A. I don't know that I knew that</p> <p>24 specific detail, no.</p>	<p style="text-align: right;">Page 32</p> <p>1 start.</p> <p>2 BY MR. MIRABELLA:</p> <p>3 Q. In any event, and up 'til now I</p> <p>4 think the questions have been clear.</p> <p>5 Back to ATIXA for a second,</p> <p>6 have you ever been asked by ATIXA to speak at</p> <p>7 any of their events?</p> <p>8 A. No, I don't think so.</p> <p>9 Q. Do you have any ATIXA material</p> <p>10 that you ever used for reference?</p> <p>11 A. I don't believe so.</p> <p>12 Q. Do you know if you've ever used</p> <p>13 ATIXA materials for reference?</p> <p>14 A. I don't recall.</p> <p>15 Q. Have you ever been asked to --</p> <p>16 tell me a little bit about the role -- tell me</p> <p>17 about the consulting you've done for the Clery</p> <p>18 Center.</p> <p>19 A. I worked with them on</p> <p>20 consulting on their curriculum for one of</p> <p>21 their trainings. I believe they were moving</p> <p>22 either to an extended training or they were</p> <p>23 looking for ways to integrate more adult</p> <p>24 learning in the training, and so I provided</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. And I'm not saying they were or</p> <p>2 they weren't. I'm just asking you if have</p> <p>3 ever been?</p> <p>4 A. No, I'm not personally a member</p> <p>5 of ATIXA.</p> <p>6 Q. If you have ever taken any</p> <p>7 webinars through ATIXA, would they be possibly</p> <p>8 on the list that you keep?</p> <p>9 A. Possibly.</p> <p>10 Q. I'm trailing off at the end of</p> <p>11 my questions and then you're finishing my</p> <p>12 questions with your answer before I finish the</p> <p>13 question, correctly I might add, but we're</p> <p>14 talking over each other a little bit for the</p> <p>15 court reporter. So if I interrupt your answer</p> <p>16 tell me. Just give me a second. I do</p> <p>17 sometimes start to pause, but I'll try to keep</p> <p>18 my questions forward.</p> <p>19 MR. PICCERILLI: Let him ask</p> <p>20 his full question before you answer, and he'll</p> <p>21 let you give your full answer before he asks</p> <p>22 the next question.</p> <p>23 MR. MIRABELLA: That's a</p> <p>24 standard instruction that I didn't give at the</p>	<p style="text-align: right;">Page 33</p> <p>1 some of that framework.</p> <p>2 I've also consulted on other</p> <p>3 Clery Center trainings that they were</p> <p>4 facilitating again to specifically incorporate</p> <p>5 adult learning techniques as part of my</p> <p>6 Master's in education.</p> <p>7 Q. Back to the ASCA, does that</p> <p>8 organization also produce any professional</p> <p>9 publications or journals?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know if you ever</p> <p>12 consulted any in connection with your work as</p> <p>13 in student discipline?</p> <p>14 A. Can you repeat that again?</p> <p>15 Q. Sure. Do you know if you ever</p> <p>16 used any of materials in connection with your</p> <p>17 work in student discipline?</p> <p>18 A. The ASCA?</p> <p>19 Q. Yes.</p> <p>20 A. I can't recall specifically.</p> <p>21 Q. Do they produce like a monthly</p> <p>22 journal or anything like that?</p> <p>23 A. No, not that I'm aware of.</p> <p>24 Q. Just for context I'm going to</p>

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<p style="text-align: right;">Page 34</p> <p>1 ask you some very general questions about 2 certain areas of your responsibilities and 3 then get back to question you in more detail 4 later in the deposition, but I want to make 5 sure I allocate the correct amount of time to 6 some of these things. 7 Were you directly involved in 8 the formulation of the Sexual Misconduct 9 Policy, both the interim and the policy that's 10 in place now at Saint Joseph's University? 11 A. The policy that is in place 12 now, yes, I served on the committee. 13 Q. Dr. White, were you directly 14 involved in either of the two grant 15 applications that were recently done at Saint 16 Joe's to the Office of Violence Against Women 17 for a \$300,000 Federal Grant and a \$30,000 18 grant? 19 MR. PICCERILLI: I think you 20 misspoke in terms of the second. The second 21 one is a State Grant. 22 MR. MIRABELLA: I'm confident 23 that Dr. White will correct me. 24 THE WITNESS: Yes, that's</p>	<p style="text-align: right;">Page 36</p> <p>1 Information System Manager, does the StarRez 2 system fall under that umbrella? 3 A. Information systems is any of 4 the information technology related to the 5 division, and so I guess I would ask for 6 clarification with what you mean to fall under 7 that umbrella. 8 Q. Does she have any role in data 9 entry or use of the StarRez system? 10 A. No. She oversees projects at a 11 high level -- information technology projects 12 at a high level. 13 Q. The appeal process that's in 14 place now, when there's findings I guess in 15 claims of sexual misconduct, did you have any 16 role in the formulation of that policy? 17 A. The current policy that's in 18 place, yes, I served on the committee. 19 Q. I want to go back to 2014 and 20 the process that was in place. As of 2014, 21 what was your -- how directly or indirectly 22 were you involved in Community Standards and 23 student discipline? 24 A. In 2014 I was the Assistant</p>
<p style="text-align: right;">Page 35</p> <p>1 correct. There's one OVW Grant and there's 2 one Pennsylvania State Grant. 3 BY MR. MIRABELLA: 4 Q. With respect to those grant 5 applications, were you involved in either? 6 A. Yes, I was. 7 Q. And were you principally 8 responsible for the OVW Grant application? 9 A. I was, I was the lead author. 10 Q. And who was the lead author on 11 the State Grant? 12 A. Dr. Perry. 13 Q. Who do you report to at SJU? 14 A. Dr. Perry and Cary Anderson. 15 Q. And who reports directly to 16 you? 17 A. Bill Bordak, Dr. Greg Nicholas, 18 who is the Counseling Center Director, Ms. 19 Marci Berney who is the Director of Student 20 Outreach and Support, Laura Hertz who is the 21 Director of the Student Health Center, and 22 Carla Castro who is our Information System 23 Manager. 24 Q. Carla Castro, who is the</p>	<p style="text-align: right;">Page 37</p> <p>1 Vice President for Student Life and so I 2 supervised the Director of Community 3 Standards. 4 Q. And as the supervisor of the 5 Director of Community Standards what role, if 6 any, did you have to play with respect to 7 student misconduct cases? 8 A. Specifically I facilitated the 9 appeal process, and by way of my supervisory 10 role to Community Standards would oversee the 11 Community Standards Office and its 12 involvement. 13 Q. As I understand it from 14 testimony from Mr. Bordak, the StarRez system 15 came into effect around 2011? 16 A. I can't recall the specific 17 dates. 18 Q. Do you have any recollection of 19 it being in place earlier than that? 20 A. I don't remember. 21 Q. What's your interface, if any, 22 with the Title IX Coordinator? 23 MR. PICCERILLI: Objection to 24 form.</p>

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<p style="text-align: right;">Page 38</p> <p>1 BY MR. MIRABELLA: 2 Q. You can still answer. 3 A. Regarding the process, the 4 sexual misconduct process? If you could 5 provide a little bit more detail to what 6 you're asking me. 7 Q. Yes, sure. Do you periodically 8 work with the Title IX Coordinator in any 9 aspect of your role? 10 A. Periodically, yes. 11 Q. But the Title IX Coordinator 12 does not report to you? 13 A. No. 14 Q. Have you ever been a Title IX 15 Coordinator? 16 A. No. 17 Q. What's the Behavioral 18 Intervention Team? 19 A. It's a team that comes together 20 when there are potential incidents that 21 someone from the University community feels 22 there may be a concern, that needs to be 23 inter -- when there needs to be an 24 intervention.</p>	<p style="text-align: right;">Page 40</p> <p>1 individual students, supporting them while 2 they're students, sometimes while they're away 3 in terms of re-entry or time away from the 4 institution if it's for a mental health 5 concern or something like that. Then we have 6 Wellness, Alcohol and Drug Education Program. 7 And then there's also this Sexual Misconduct 8 Prevention Specialist that was recently hired 9 as part of the OVW Grant. 10 Q. And the Sexual Misconduct 11 Specialist, who is that? 12 A. Chris Morrin. 13 MS. ENGLE: Can we go off the 14 record. 15 - - - 16 (Whereupon, a short break was taken at 17 this time) 18 - - - 19 (Mr. Chesney entered) 20 BY MR. MIRABELLA: 21 Q. What do you know generally of 22 Mr. Morrin's background? 23 A. I know that he previously held 24 a similar position, grant position years ago,</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. So it could include claims of 2 misconduct? 3 A. It could. 4 Q. Could it include claims of 5 substance abuse? 6 A. It could. 7 Q. And could it include concerns 8 over mental health? 9 A. Yes. 10 Q. How is the process triggered? 11 A. Again, there may be a report 12 from someone at the University formally or 13 informally. Someone at the University may 14 learn of something that sounds concerning. 15 It's organic in that way. And typically, 16 Marci Bernie, who is Director of Student 17 Outreach and Support would convene the group 18 if deemed necessary based on the information 19 that's provided. 20 Q. And the Office of Student 21 Outreach and Support, generally what's the 22 focus for student life from that office? 23 A. It's a three-prong office. 24 There's case management, so working with</p>	<p style="text-align: right;">Page 41</p> <p>1 and I believe it was at St. Lawrence 2 University. 3 Q. Were you involved in his 4 retention? 5 A. I was. 6 Q. Do you know if he has any 7 certifications with respect to Title IX or to 8 student misconduct education? 9 A. I don't recall. 10 Q. How did the school go about 11 finding somebody for that role? 12 A. There was an open search. 13 Q. And did -- I assume there were 14 other candidates? 15 A. Yes. 16 Q. And you were involved in the 17 selection process as well then? 18 A. Yes. 19 Q. And at some point you saw his 20 Resume or C.V.? 21 A. Yes. 22 Q. Is that role going to stay in 23 place after the grant money is expended? 24 A. I don't have specific</p>

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<p style="text-align: right;">Page 42</p> <p>1 information about that.</p> <p>2 Q. Was Mr. Morrin retained for a</p> <p>3 period of time, like for a year, or do you</p> <p>4 know anything about that?</p> <p>5 A. It's a grant-funded position</p> <p>6 currently. So the grant funding is for three</p> <p>7 years.</p> <p>8 Q. It's for three years?</p> <p>9 A. Yes.</p> <p>10 Q. And what are Mr. Morrin's</p> <p>11 day-to-day responsibilities?</p> <p>12 A. Overseeing the requirements of</p> <p>13 the grant.</p> <p>14 Q. Am I correct you were the</p> <p>15 person responsible for reporting on behalf of</p> <p>16 the OVW grant?</p> <p>17 A. Can you clarify that?</p> <p>18 Q. Sure. The school SJU has to</p> <p>19 submit biannual reports to the Office of</p> <p>20 Violence Against Women; correct?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. Are you the person at the</p> <p>23 school responsible for -- ultimately</p> <p>24 responsible for SJU providing those reports?</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. MIRABELLA: No, it was a</p> <p>2 bad question. Let me ask it a different</p> <p>3 away.</p> <p>4 THE WITNESS: Thank you.</p> <p>5 BY MR. MIRABELLA:</p> <p>6 Q. You were involved in student</p> <p>7 discipline basically from 2004 until the</p> <p>8 present time at one level or another; correct?</p> <p>9 A. Yes.</p> <p>10 Q. From 2004 until 2014, are you</p> <p>11 aware of the school being criticized for its</p> <p>12 manner of investigating claims of sexual</p> <p>13 misconduct?</p> <p>14 A. I don't believe so.</p> <p>15 Q. But there came a point in time</p> <p>16 sometime in 2013 and 2014 when the school went</p> <p>17 through a process of examining its</p> <p>18 investigative model for student misconduct</p> <p>19 involving sexual misconduct?</p> <p>20 A. Correct.</p> <p>21 Q. Do you know what prompted that</p> <p>22 interest, that reflection or that review?</p> <p>23 A. I don't recall my specific</p> <p>24 involvement with that change in particular</p>
<p style="text-align: right;">Page 43</p> <p>1 A. No, I'm not.</p> <p>2 Q. Have you ever been?</p> <p>3 A. No.</p> <p>4 Q. Who did the first report?</p> <p>5 A. Marci Berney.</p> <p>6 Q. And will Mr. Morrin be involved</p> <p>7 in doing the report or would that be Marci</p> <p>8 Berney?</p> <p>9 A. I believe it will be Chris</p> <p>10 Morrin moving forward. Chris reports to</p> <p>11 Marci. So I'm not sure of the exact details</p> <p>12 of their day-to-day responsibilities regarding</p> <p>13 that.</p> <p>14 Q. Are you familiar with any of</p> <p>15 discussions or questions about problems or</p> <p>16 concerns with the school method of</p> <p>17 investigating claims of sexual misconduct</p> <p>18 during the period before the change, 2011 to</p> <p>19 2014?</p> <p>20 A. Can you repeat that?</p> <p>21 Q. Sure. Let me try it a</p> <p>22 different way.</p> <p>23 MR. PICCERILLI: Do you want</p> <p>24 her to read it back?</p>	<p style="text-align: right;">Page 45</p> <p>1 from the model that we had in 2014 to the</p> <p>2 interim policy.</p> <p>3 Q. Correct. I was asking really</p> <p>4 more do you recall what prompted or what were</p> <p>5 the motivating factors and issues that</p> <p>6 prompted the school to reexamine and then</p> <p>7 change the policy?</p> <p>8 A. Part of our ongoing work always</p> <p>9 is learning and evaluating any new guidance or</p> <p>10 policies that come out, best practices and</p> <p>11 that kind of thing. And so that was I believe</p> <p>12 around the time of one of the Dear Colleague</p> <p>13 Letters.</p> <p>14 Q. Do you have any recollection of</p> <p>15 a finding of responsibility against a female</p> <p>16 for sexual misconduct before 2015?</p> <p>17 A. I don't recall.</p> <p>18 Q. Am I correct that before the</p> <p>19 new policy on sexual misconduct in 2015 that</p> <p>20 the Complainant and the Respondent were</p> <p>21 provided access to the evidentiary record,</p> <p>22 evidence, prior to an administrative hearing</p> <p>23 or a hearing board meeting?</p> <p>24 MR. PICCERILLI: Objection to</p>

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<p style="text-align: right;">Page 46</p> <p>1 form.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. MIRABELLA:</p> <p>4 Q. And after the new Sexual</p> <p>5 Misconduct Policy was put in place, did that</p> <p>6 policy change?</p> <p>7 A. The entire policy was revised,</p> <p>8 yes.</p> <p>9 Q. Now, let's see, I don't want to</p> <p>10 get apples and oranges mixed up. As I</p> <p>11 understand it, and you can correct me if I'm</p> <p>12 wrong, prior to 2015 the policy of providing</p> <p>13 the Complainant and the Respondent access to</p> <p>14 the evidence prior to the hearing or</p> <p>15 administrative panel was not written down</p> <p>16 anywhere, but it was the practice of the</p> <p>17 University; is that correct?</p> <p>18 MR. PICCERILLI: Objection to</p> <p>19 form. You can answer.</p> <p>20 THE WITNESS: I don't recall.</p> <p>21 BY MR. MIRABELLA:</p> <p>22 Q. So you don't recall if it was</p> <p>23 written down or not?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Okay.</p> <p>2 Q. So before 2015 for serious</p> <p>3 matters students were either at an</p> <p>4 administrative hearing officer or a Board</p> <p>5 heard their case; correct?</p> <p>6 A. Yes.</p> <p>7 Q. And the hearing of the case was</p> <p>8 generally referred to as a hearing; correct?</p> <p>9 A. Correct.</p> <p>10 Q. And the Complainant and the</p> <p>11 Respondent before 2015 were provided access to</p> <p>12 the evidence, proof and investigation prior to</p> <p>13 the hearing?</p> <p>14 A. Yes.</p> <p>15 Q. Now, with the change in 2015</p> <p>16 from having a traditional hearing to having an</p> <p>17 investigator who did interviews and functioned</p> <p>18 as a hearing, is that what you were referring</p> <p>19 to earlier?</p> <p>20 A. Yes.</p> <p>21 Q. So after the policy changed in</p> <p>22 2015, am I correct that students were no</p> <p>23 longer provided access to the records,</p> <p>24 evidence and proof, Complainant and</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. All right. After the new</p> <p>2 policy was put into place in 2015 with respect</p> <p>3 to providing access to the evidence or records</p> <p>4 to the Complainant and Respondent prior to a</p> <p>5 hearing or meeting with an investigator the</p> <p>6 policy was changed?</p> <p>7 MR. PICCERILLI: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: One more time.</p> <p>10 BY MR. MIRABELLA:</p> <p>11 Q. After the new interim SMP</p> <p>12 policy came into effect, the practice of</p> <p>13 providing the Complainant and Respondent</p> <p>14 access to the evidence and records prior to a</p> <p>15 hearing board or an interview with an</p> <p>16 investigator changed as compared to the</p> <p>17 practice before?</p> <p>18 A. So just to clarify, I guess</p> <p>19 from my perspective, with the language, so the</p> <p>20 investigation -- the word investigation is</p> <p>21 used in both before and after. But the</p> <p>22 meaning of it is different.</p> <p>23 Q. Sure. So I think I can clarify</p> <p>24 that.</p>	<p style="text-align: right;">Page 49</p> <p>1 Respondent, in advance of meeting with the</p> <p>2 investigator since -- for the quote, unquote</p> <p>3 hearing that the investigator conducted?</p> <p>4 MR. PICCERILLI: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: Yes, because we</p> <p>7 don't have all the information that we had in</p> <p>8 the previous model. And so in the previous</p> <p>9 model there was an investigation through</p> <p>10 Public Safety, information was collected.</p> <p>11 Students involved in the process were not</p> <p>12 privy to those documents during that Public</p> <p>13 Safety investigation, but prior to the</p> <p>14 hearing.</p> <p>15 Whereas in the investigator</p> <p>16 model the information is being collected</p> <p>17 during the meeting and investigation with the</p> <p>18 investigator as well as involvement from the</p> <p>19 parties involved. So we don't have all the</p> <p>20 information at the time of the investigation</p> <p>21 to share with the students involved.</p> <p>22 BY MR. MIRABELLA:</p> <p>23 Q. And even if there's a report</p> <p>24 generated, even if there are materials that</p>

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<p style="text-align: right;">Page 50</p> <p>1 are available, the school's policy is not to 2 give the students, Respondent or Complainant, 3 access to those materials prior to the meeting 4 with the investigator? 5 A. Correct, to preserve the 6 integrity of the investigation. 7 Q. And what's your definition 8 of -- what do you mean by integrity of the 9 investigation? 10 A. At that point information is 11 still being collected and so information is 12 not shared, detailed information is not shared 13 with the party involved prior to the 14 collection of information. 15 Q. And the only information that 16 is shared is that which is set forth in the 17 Notice of Process Letter? 18 A. Yes. 19 MR. PICCERILLI: Excuse me, for 20 clarification, you mean before the 21 investigation? 22 MR. MIRABELLA: No. I mean 23 before the Respondent or Complainant meet with 24 the investigator.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. No. I mean not during the 2 investigation itself, but does the 3 investigator present findings in writing to 4 the Complainant or Respondent giving them an 5 opportunity to respond? 6 A. Does the investigator do that, 7 I do not know exactly what she does. 8 Q. Does the SMP require the 9 investigator to do that? 10 A. No. 11 Q. Dr. White, have you ever 12 personally been involved in issues with a 13 claim of misconduct either as an Administrator 14 or as a student? 15 MR. PICCERILLI: Objection to 16 form. 17 BY MR. MIRABELLA: 18 Q. You can still answer. 19 A. Can you ask it again? 20 Q. I'd like to ask it generally 21 because I don't want to get too specific. 22 But I just want to know, as a 23 student or a graduate student or as an 24 Administrator at Saint Joe's University, have</p>
<p style="text-align: right;">Page 51</p> <p>1 MR. PICCERILLI: Right, that's 2 what I meant to say. 3 BY MR. MIRABELLA: 4 Q. Are either the Complainant or 5 Respondent entitled to see and to respond to 6 the findings of the investigator before 7 there's a formal finding or outcome? 8 A. Can you rephrase that? 9 Q. Sure. As the Complainant and 10 Respondent, so I'm referring to both of them, 11 are either or both entitled to see the 12 investigator's findings before there's a final 13 outcome? 14 A. See the findings before, no. 15 Q. Are either the Complainant or 16 Respondent entitled to respond to the 17 investigator's findings in writing before 18 there's an outcome? 19 A. I'm not sure of the details of 20 which the investigation, any response that is 21 allowed during the investigation. So if there 22 is opportunity to respond to allegations 23 within the investigation itself I'm not -- I 24 don't have those details.</p>	<p style="text-align: right;">Page 53</p> <p>1 you ever been a Complainant or a Respondent? 2 MR. PICCERILLI: Objection to 3 that question. What's the relevance of that 4 question? 5 MR. MIRABELLA: The relevance 6 of the question, depending upon the witness' 7 personal experience, it may impact -- it may 8 go to bias. 9 MR. PICCERILLI: Well, basis as 10 to what? She was involved in the appeal. 11 Basis as to what? 12 MR. MIRABELLA: You asked me 13 for the relevance and I told you the 14 relevance. I don't intend to go into 15 details. It's part of my standard questions. 16 MR. PICCERILLI: You don't have 17 to answer that question if you feel it's too 18 personal that you don't want to. If you want 19 to answer you may. 20 THE WITNESS: Are you speaking 21 specifically about sexual misconduct? 22 BY MR. MIRABELLA: 23 Q. I was speaking more generally, 24 but given the sensitive area, whatever is more</p>

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<p style="text-align: right;">Page 54</p> <p>1 likely to provoke an answer. So I'll do it 2 generally or I can limit it to that. 3 A. I have never been involved as a 4 Complainant or Respondent in anything related 5 to sexual misconduct. 6 Q. Currently what are your 7 responsibilities on a day-to-day basis? 8 A. It depends on the day. I don't 9 know that I could describe a typical day. As 10 I mentioned, I oversee five areas. In 11 addition to overseeing those areas, I also 12 coordinate the strategy planning assessment 13 efforts for the Division of Student Life as 14 well as serve as staff -- staffing the Student 15 Life Committee on the Board of Trustees. 16 So it's hard to describe a 17 typical day, but many meetings about many 18 different things. I serve on various 19 University committees ranging from 20 Commencement to Community Engagement to 21 Behavioral Intervention Team. It's quite 22 varied depending on the day and time of year. 23 I don't know if that answers your question, 24 but...</p>	<p style="text-align: right;">Page 56</p> <p>1 issue of sexual misconduct or was it broader 2 than that? 3 A. I believe the committee was 4 looking at the Sexual Misconduct Policy as 5 well as the Policy Prohibiting Discrimination, 6 harassment and retaliation, I believe. I 7 believe that the committee was looking at both 8 of those. 9 Q. Was it looking at anything else 10 that had been within the rubric of student 11 misconduct? 12 A. No. 13 Q. Did the committee circulate 14 drafts or hear speakers or have hearings? 15 What was the work of the committee? 16 A. It was a working committee. So 17 several meetings, I believe, I can't recall 18 the specific amount of meetings, came together 19 for discussions. I do recall Liz Malloy, the 20 lead investigator, came in to speak with the 21 committee. Yes, various -- not subcommittees, 22 not as formal as subcommittees, but there was 23 some delegation of tasks that happened, and 24 that's all I can remember at the time.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Tell me a little bit more about 2 your involvement on the committee in 3 connection with the formulation of the Sexual 4 Misconduct Policy. 5 A. I served on the committee. 6 There was a committee that came together. 7 Q. And do you know who else was on 8 the committee, how often they met and who was 9 the lead, if there were, authors of the policy 10 that is in place now? 11 A. The lead of the committee was 12 Dr. Cary Anderson and Dr. Josephine Shih, who 13 is a faculty member, a psychologist at Saint 14 Joe's University. Other members of the 15 committee include, but I don't know that I can 16 recall them all, Dr. Perry, there was at least 17 one student, a Sister, Dr. Betsy Lenaghan, Dr. 18 Raquel Bergen. I believe Sharon Eisenmann who 19 is our Vice President for Human Resources was 20 on the committee. I don't know if there are 21 others that I'm not thinking about, but those 22 are ones that I can recall being on the 23 committee. 24 Q. Was the committee solely on the</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Besides Liz Malloy, do you 2 remember any other individuals from outside 3 groups coming in and speaking? 4 A. I don't recall. 5 Q. At that point in time, had 6 Elizabeth Malloy done any work for the Office 7 of Community Standards before coming in to 8 speak to the committee? 9 A. I don't recall. 10 Q. Do you recall having met her 11 any other time before then? 12 A. Into the committee? 13 Q. Before meeting her when she 14 spoke at the committee, do you recall working 15 with her before that? 16 A. I recall meeting her before 17 that. I don't recall if it was within the 18 Community Standards process or not. 19 Q. Were there any issues of 20 misconduct, student or otherwise, for which 21 Saint Joseph's University retained or utilized 22 outside investigators prior to January of 23 2015? 24 A. For student misconduct, not</p>

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<p style="text-align: right;">Page 58</p> <p>1 that I'm aware of.</p> <p>2 Q. And what about for staff or</p> <p>3 administrative misconduct?</p> <p>4 A. I don't know that I would have</p> <p>5 the answer to that.</p> <p>6 Q. Do you remember, other than Ms.</p> <p>7 Malloy, perhaps members of her -- other</p> <p>8 members of her firm coming to speak to the</p> <p>9 committee?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you remember what Ms. Malloy</p> <p>12 spoke about?</p> <p>13 A. I believe it was generally the</p> <p>14 practice of the investigation and what that</p> <p>15 looked like in terms of informing the</p> <p>16 committee of that, but I can't recall the</p> <p>17 specifics.</p> <p>18 Q. And so there was talk of</p> <p>19 changing the investigative and adjudication</p> <p>20 process for sexual misconduct; correct?</p> <p>21 A. Can you repeat that?</p> <p>22 Q. Sure. The committee was</p> <p>23 thinking about and considering and discussing</p> <p>24 changing the practice for investigation and</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. All right. Let's go back to</p> <p>2 2013 and 2014 at Saint Joseph's University.</p> <p>3 At that point in time were you involved in any</p> <p>4 committee looking at, examining or changing</p> <p>5 the school's policy for the investigation of</p> <p>6 sexual misconduct?</p> <p>7 A. This is what I mentioned</p> <p>8 earlier. I don't recall my specific</p> <p>9 involvement from what was in place from 2013</p> <p>10 for 2014 to the interim in January of 2015.</p> <p>11 Q. And when Ms. Malloy came and</p> <p>12 spoke, was it during the time period the</p> <p>13 interim policy was in place?</p> <p>14 A. Yes.</p> <p>15 Q. And had Ms. Malloy already done</p> <p>16 investigations for the University when she</p> <p>17 came and spoke?</p> <p>18 A. I don't recall.</p> <p>19 Q. Who at the University was</p> <p>20 ultimately responsible for selecting Ms.</p> <p>21 Malloy or members of her firm to perform</p> <p>22 outside investigations?</p> <p>23 A. I don't know if I know that.</p> <p>24 I'm not responsible for that.</p>
<p style="text-align: right;">Page 59</p> <p>1 adjudication of sexual misconduct claims?</p> <p>2 MR. PICCERILLI: Objection.</p> <p>3 THE WITNESS: I don't know that</p> <p>4 I understand your question.</p> <p>5 MR. PICCERILLI: It misstates</p> <p>6 her testimony.</p> <p>7 BY MR. MIRABELLA:</p> <p>8 Q. Well, was the committee</p> <p>9 considering changing the investigative process</p> <p>10 for claims of sexual misconduct, looking at</p> <p>11 it?</p> <p>12 A. From what was in place with the</p> <p>13 interim model?</p> <p>14 Q. From what was in place in 2014?</p> <p>15 A. So the committee that I am</p> <p>16 referring to is the committee that was in</p> <p>17 place after the interim Sexual Misconduct</p> <p>18 Policy was put in place. So I'm not sure if I</p> <p>19 understand.</p> <p>20 Q. So your question -- my</p> <p>21 questions, your answers were based on your</p> <p>22 belief that I was asking you about the</p> <p>23 committee in place after the interim policy?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. Do you know if Dr. Anderson is?</p> <p>2 A. I do not know.</p> <p>3 Q. Do you know if not that, who</p> <p>4 would be responsible for reviewing the quality</p> <p>5 and thoroughness of her investigations?</p> <p>6 MR. PICCERILLI: I'm sorry, may</p> <p>7 I hear that again. Can you read it back.</p> <p>8 ---</p> <p>9 (Whereupon, the court reporter read</p> <p>10 back the pertinent information.)</p> <p>11 ---</p> <p>12 THE WITNESS: It's not my</p> <p>13 responsibility. I do not know.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. Do you know if that would fall</p> <p>16 within Dr. Anderson's purview?</p> <p>17 A. I can't say for sure.</p> <p>18 Q. I'm going to ask you some more</p> <p>19 questions about that. I just want to do it in</p> <p>20 an efficient way.</p> <p>21 A. Okay.</p> <p>22 Q. As the Director of Community</p> <p>23 Standards, or anyone else that reports to you,</p> <p>24 responsible for reviewing the thoroughness and</p>

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<p style="text-align: right;">Page 62</p> <p>1 quality of the investigations performed by Ms. 2 Malloy? 3 A. I would imagine that, and she 4 does not report -- 5 MR. PICCERILLI: No guess. 6 Whatever you know. 7 THE WITNESS: The Title IX 8 Coordinator, Dr. Mary-Elaine Perry, is the one 9 who is in main contact with Liz Malloy in the 10 instances that I'm aware of. 11 BY MR. MIRABELLA: 12 Q. And when you -- all right. 13 And is it your understanding 14 that -- do you have an understanding whether 15 Dr. Perry communicates with Ms. Malloy or the 16 other outside investigators during the course 17 of an investigation? 18 A. I do not know that. 19 Q. And what are the instances in 20 which you are aware in which Dr. Perry was in 21 contact with or communicating with Ms. Malloy? 22 A. If there are -- I recall an 23 instance there was checking in on the timeline 24 of an investigation, for example.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I may have. 2 Q. Are you -- and does that 3 refresh your recollection if you ever 4 presented an ATIXA event one way or the other? 5 A. Not specifically, no. There 6 are sometimes events that are cosponsored. I 7 don't recall specific ATIXA events, but 8 sometimes there are trainings and other 9 institutes that are cosponsored among 10 different organizations. 11 Q. And if I forget to ask -- well, 12 can you make available to your attorney, 13 whether your attorney discloses it is a 14 different issue, the list of your professional 15 webinars that you assembled, that I understand 16 is not complete? 17 A. Yes. 18 Q. What is the Jesuit Association 19 for Student Personnel? 20 A. That's another one that we're a 21 member of. I apologize for missing that 22 earlier, but that is the Jesuit Association of 23 Student Personnel Administrators. 24 Q. And what's your role there, if</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Are you familiar with the 2 timeline? 3 A. Yes, I am. 4 Q. What's been your sort of 5 education or professional experience with 6 Title IX as it pertains to the student 7 discipline? 8 A. Any webinars, various 9 trainings, meeting with colleagues, 10 conversations with colleagues. 11 Q. Oh, I wanted to ask you, go 12 back to another question. Did you present 13 at -- I take it you do professional 14 presentations from time to time? 15 A. Correct. 16 Q. Do you do them on a regular 17 basis? 18 A. How would you describe 19 regular? 20 Q. Couple times a year? 21 A. Not necessarily. 22 Q. Did you present at an ATIXA 23 event called the "Intersections in Compliance: 24 Exploring Title IX and the Clery Act" in 2014?</p>	<p style="text-align: right;">Page 65</p> <p>1 any? 2 A. So I'm a member. The 3 institution is one of 28 Jesuit institutions 4 in the U.S. Saint Joseph's University I 5 mean. So by way of that I am a member. I 6 served as a Program Committee Member for the 7 JASPA five-year institute in 2015 at the 8 University of San Francisco. And I am 9 currently serving as the Co-Chair of the 10 five-year summer institute for JASPA in 2020 11 at Loyola, Chicago. 12 Q. And what type of events will be 13 at the summer institute? 14 A. We're still in the planning 15 phases of that. 16 Q. Let me ask the question a 17 different way. Using your experience with the 18 2015, what types of presentations and 19 education or seminars do you expect will be 20 available? 21 A. Again, it is within the field 22 of student affairs. So a pretty broad array 23 of topics to include the various functional 24 affairs within student affairs embedded within</p>

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<p style="text-align: right;">Page 66</p> <p>1 the mission of Jesuit institutions.</p> <p>2 Q. In the 2015 summer institute,</p> <p>3 was there any presentations or workshops on</p> <p>4 Title IX or student sexual misconduct?</p> <p>5 A. I don't recall specifically.</p> <p>6 Q. Did you teach any?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Do you periodically review the</p> <p>9 Dear Colleague Letters and the Q&A that are</p> <p>10 issued by the Office for Civil Rights of the</p> <p>11 Department of Education?</p> <p>12 A. Yes.</p> <p>13 Q. Do you retain copies of those</p> <p>14 in your office?</p> <p>15 A. All of them? I'm not sure that</p> <p>16 I have all of them.</p> <p>17 Q. Sure. And I was just trying to</p> <p>18 get a sense for how closely you work with</p> <p>19 them.</p> <p>20 Let me ask kind of a related</p> <p>21 question. What reference materials do you</p> <p>22 keep in your office in terms of Title IX,</p> <p>23 Clery Act or that type of subject matter?</p> <p>24 MR. PICCERILLI: Can we break</p>	<p style="text-align: right;">Page 68</p> <p>1 them for what they are, subregulatory</p> <p>2 guidance.</p> <p>3 Q. And what's your understanding</p> <p>4 or definition of subregulatory?</p> <p>5 A. It's not the law.</p> <p>6 Q. At Saint Joseph's has anyone</p> <p>7 provided you training with respect to the</p> <p>8 areas of student discipline when you first</p> <p>9 assumed your role back in 2003, 2004?</p> <p>10 A. Can you repeat that again.</p> <p>11 Q. Sure. Did you get any training</p> <p>12 in-house at Saint Joe's in connection with</p> <p>13 your role as Student Discipline when you first</p> <p>14 came to Saint Joe's?</p> <p>15 A. Yes.</p> <p>16 Q. And who was that from or how</p> <p>17 was that done or both?</p> <p>18 A. Dr. Nancy Komada, one of my</p> <p>19 supervisors at the time. Dr. Linda Lelii was</p> <p>20 the Vice President of Student Life at the</p> <p>21 time. There was another colleague, Dr. Lynn</p> <p>22 Ortale, who I believe was an Associate Vice</p> <p>23 President for Student Life at the time.</p> <p>24 Q. I'm jumping around a little</p>
<p style="text-align: right;">Page 67</p> <p>1 it down.</p> <p>2 MR. MIRABELLA: Sure. The</p> <p>3 witness can describe any way she's comfortable</p> <p>4 saying what reference materials she keeps</p> <p>5 handy or from time to time refers to.</p> <p>6 THE WITNESS: It varies quite</p> <p>7 honestly depending upon what I believe is</p> <p>8 probably readily available, publicly</p> <p>9 available, and what I may need to retain my</p> <p>10 own copy of for one reason or another. Many</p> <p>11 of the information -- much of the information</p> <p>12 that you just described is readily available,</p> <p>13 in my opinion.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. Do you have any textbooks or</p> <p>16 particular publications that you use more</p> <p>17 often than others?</p> <p>18 A. No.</p> <p>19 Q. What's your understanding of</p> <p>20 the significance of the Dear Colleague and Q&A</p> <p>21 materials when they're issued for school</p> <p>22 administrators?</p> <p>23 A. They are subregulatory</p> <p>24 guidance, so we review those items. We take</p>	<p style="text-align: right;">Page 69</p> <p>1 bit. Back to the interim policy on sexual</p> <p>2 misconduct and the committee.</p> <p>3 So tell me, that committee was</p> <p>4 involved in transitioning from the interim</p> <p>5 policy to what I'll call the final policy that</p> <p>6 was in place in 2015, non-interim policy?</p> <p>7 A. Can you repeat that?</p> <p>8 Q. Sure. In January of 2015 there</p> <p>9 was an interim SMP policy; correct?</p> <p>10 A. For students only.</p> <p>11 Q. And then there was a final SMP</p> <p>12 policy that came into effect I believe in June</p> <p>13 of 2015 or sometime thereafter?</p> <p>14 A. Yes, I believe so.</p> <p>15 Q. And tell me what your</p> <p>16 committee's focus was on in connection with</p> <p>17 that transition.</p> <p>18 A. It was to look at a university</p> <p>19 wide policy for sexual misconduct.</p> <p>20 Q. So the interim SMP only applied</p> <p>21 to students?</p> <p>22 A. Correct.</p> <p>23 Q. And did same hold for the</p> <p>24 policy against discrimination?</p>

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<p style="text-align: right;">Page 70</p> <p>1 A. I don't recall specifically.</p> <p>2 Q. During your time when you were</p> <p>3 directly involved in student discipline, and I</p> <p>4 know that spans from 2004 to 2013?</p> <p>5 A. Currently.</p> <p>6 Q. All right. Let me try to</p> <p>7 bracket this a little differently. Have the</p> <p>8 number of claims of sexual misconduct been --</p> <p>9 that have been reported have they been</p> <p>10 relatively steady, have they changed, have you</p> <p>11 noticed any trends?</p> <p>12 A. I don't know that I can comment</p> <p>13 on that right now without reviewing</p> <p>14 information around that.</p> <p>15 Q. You became the Assistant to the</p> <p>16 Vice President in 2013?</p> <p>17 A. To the Vice President in 2007.</p> <p>18 Assistant Vice President in 2013.</p> <p>19 Q. Since becoming Assistant Vice</p> <p>20 President in 2014 to the present time, have</p> <p>21 you been aware of any changes in the frequency</p> <p>22 of reporting of claims of sexual misconduct?</p> <p>23 A. Again, without that information</p> <p>24 I don't know that I can comment on that.</p>	<p style="text-align: right;">Page 72</p> <p>1 Eisenmann.</p> <p>2 Q. Who currently is the Title IX</p> <p>3 Coordinator at Saint Joseph's?</p> <p>4 A. Dr. Mary-Elaine Perry.</p> <p>5 Q. But she's the Interim</p> <p>6 Coordinator?</p> <p>7 A. Correct.</p> <p>8 Q. Why is she the Interim</p> <p>9 Coordinator and not the Coordinator, if you</p> <p>10 know?</p> <p>11 A. There were reductions, staff</p> <p>12 reductions at the University, position</p> <p>13 eliminations as of June 1, 2018. I don't know</p> <p>14 if I know the details of her specific</p> <p>15 situation regarding her interim role.</p> <p>16 Q. Were there any other staff</p> <p>17 reductions in that time frame in connection</p> <p>18 with the people that report to you or your</p> <p>19 office?</p> <p>20 A. So as of June 1, 2018 three of</p> <p>21 the offices that I described reporting to me</p> <p>22 currently were not reporting to me. So</p> <p>23 Counseling, Student Health and Student</p> <p>24 Outreach and Support did not report to me</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Who is responsible for the</p> <p>2 investigation of claims of sexual misconduct</p> <p>3 under the -- at the school if it involves a</p> <p>4 Respondent that is not a student?</p> <p>5 A. I believe there's a difference</p> <p>6 between faculty and staff, depending upon the</p> <p>7 status of the Respondent, whether it's faculty</p> <p>8 or staff.</p> <p>9 Q. And this is not an area you are</p> <p>10 directly involved in; correct?</p> <p>11 A. Correct.</p> <p>12 Q. So if the potential Respondent</p> <p>13 is either a staff member or faculty member,</p> <p>14 that takes it outside of your purview;</p> <p>15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. Do you know what</p> <p>18 department would handle that?</p> <p>19 A. Human Resources.</p> <p>20 Q. And do you know currently who</p> <p>21 is the Director of -- or who in Human</p> <p>22 Resources would be responsible for that?</p> <p>23 A. I don't know specifically. The</p> <p>24 Vice President for Human Resources is Sharon</p>	<p style="text-align: right;">Page 73</p> <p>1 prior to June 1st.</p> <p>2 Q. And do you know to whom they</p> <p>3 reported?</p> <p>4 A. Dr. Mary-Elaine Perry.</p> <p>5 Q. And do you have an</p> <p>6 understanding as to which office or in which</p> <p>7 hierarchy of administration the next Title IX</p> <p>8 Coordinator will be placed and will function?</p> <p>9 THE COURT REPORTER: Can you</p> <p>10 repeat that.</p> <p>11 BY MR. MIRABELLA:</p> <p>12 Q. Do you know what the plan is</p> <p>13 going forward with respect to the next IX</p> <p>14 Coordinator, are you aware in what office that</p> <p>15 person will function?</p> <p>16 A. I do not know that</p> <p>17 information.</p> <p>18 Q. As it stood previously, did Dr.</p> <p>19 Perry, as the Title IX Coordinator title, fall</p> <p>20 underneath the office of Dr. Anderson?</p> <p>21 A. Yes.</p> <p>22 Q. With respect to the SMP, and</p> <p>23 you may have already answered this, what</p> <p>24 particular areas would your committee discuss</p>

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<p style="text-align: right;">Page 74</p> <p>1 with respect to any changes, to the best of 2 your recollection? 3 A. It was really looking at 4 creating and establishing the University wide 5 policy. So in terms of specific areas, I 6 can't recall right now if there was a specific 7 area. 8 Q. And the SMP was revised I 9 believe in 2017? 10 A. I don't recall specifically. 11 Q. Have you had any involvement in 12 the revisions or writing the revisions? 13 A. Typically, yes, I would be in 14 some way consulted. I'm not responsible for 15 the actual revisions to the policy, but I 16 would be consulted on those. 17 Q. And sitting here today, you 18 have no recollection of any specific changes? 19 A. Specifically I cannot say for 20 sure, no. 21 Q. I would like to ask you some 22 questions about the slideshow, "Breaking the 23 Silence" presentation. 24 A. Okay.</p>	<p style="text-align: right;">Page 76</p> <p>1 the slideshow come from? 2 A. Marci Berney is directly 3 responsible for the creation of the 4 PowerPoint. 5 Q. Do you see the PowerPoint? 6 A. Yes. 7 Q. And you're the facilitator, but 8 are you in the room as it's played out for the 9 students? 10 A. Yes, I'm the one that is 11 presenting and facilitating the session for a 12 small group of students. 13 Q. In the slideshow -- strike 14 that. Let me try another way. 15 In "Break the Silence" 16 slideshow it says that sexual assault occurs 17 when the act is intentional and committed by 18 force, violence, threat or intimidation, 19 ignoring the objection of another person. 20 I don't want to read the whole 21 thing since it's such a long definition. 22 Do you agree with definition? 23 I'll finish it if you want. 24 MR. PICCERILLI: I'm going to</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. As understand it, you were the 2 facilitator of that program? 3 A. Yes. 4 Q. What does that mean? 5 A. I was a presenter. 6 Q. And you've been doing that for 7 a number of years? 8 A. Yes. 9 Q. How is it presented to the 10 students generally? I mean, they're put in a 11 room and a slideshow is turned on. Is there a 12 moderator? What's the method for introducing 13 students to the information in the 14 presentation? 15 A. Small groups, so smaller 16 groups. We have a couple hundred students 17 attend our orientation session. So we break 18 those couple hundred students into smaller 19 groups with their orientation leader, and 20 there's one presenter who is, I like to use 21 the word facilitate, the presentation because 22 it's interactive. But yes, there's a 23 slideshow. 24 Q. And where did the content for</p>	<p style="text-align: right;">Page 77</p> <p>1 just object to the extent that you're reading 2 and not showing the witness the slide. It's 3 hard for her to remember I would think. 4 MR. MIRABELLA: Off the 5 record. 6 --- 7 (Whereupon, a discussion was held off 8 the record.) 9 --- 10 (Whereupon, Exhibit White-1 was marked 11 for identification.) 12 --- 13 BY MR. MIRABELLA: 14 Q. Dr. White, I'm going to ask you 15 some questions about some of the definitions I 16 started on. My prior question I started 17 reading was part of the definition. I don't 18 know if that was the best way to go about it. 19 You're free to take a minute to review it. 20 For the record, this was 21 produced as SJU1019 through 1051. And when 22 you're ready let me know. I'm going to ask 23 you some questions about the definition, 24 particularly as pertaining to sexual assault.</p>

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<p style="text-align: right;">Page 78</p> <p>1 A. Okay.</p> <p>2 Q. Do you have the Definition page</p> <p>3 in front of you?</p> <p>4 A. I believe so.</p> <p>5 Q. Can you read the number into</p> <p>6 the record or can you tell me what the number</p> <p>7 is?</p> <p>8 A. Are you referring to the number</p> <p>9 on the bottom right (indicating)?</p> <p>10 Q. Yes.</p> <p>11 A. SJU001030.</p> <p>12 Q. So just for context, this is a</p> <p>13 printout of the slideshow that's shown during</p> <p>14 orientation; correct?</p> <p>15 A. It appears to be, yes.</p> <p>16 Q. And this page is a printout</p> <p>17 from that slideshow. I don't know if it's one</p> <p>18 slide or not, but I'm assuming that's what is,</p> <p>19 and it starts with: Sexual Assault is Defined</p> <p>20 As at the top of the page; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And this is what is shown to</p> <p>23 the students at orientation; correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 80</p> <p>1 follows the previous slide 1028 where there</p> <p>2 are scenarios that are posed to the group of</p> <p>3 students and then they're asked to reflect on</p> <p>4 whether or not they feel this is harassment.</p> <p>5 So we move from harassment into</p> <p>6 sexual assault as it being a form of sexual</p> <p>7 harassment.</p> <p>8 I'm sorry, can you repeat what</p> <p>9 your specific question was?</p> <p>10 BY MR. MIRABELLA:</p> <p>11 Q. Sure. I was asking you what</p> <p>12 was the intent as the facilitator of the</p> <p>13 information to be conveyed to the students,</p> <p>14 and I think that was what you just answered?</p> <p>15 A. Yes.</p> <p>16 Q. Bear with me just a second. I</p> <p>17 want to ask you some questions about the slide</p> <p>18 pertaining to consent. I have to find it.</p> <p>19 And I take it there is a slide</p> <p>20 that talks about the issue of consent;</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have that in front of</p> <p>24 you?</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. And then it goes on and gives</p> <p>2 definitions of sexual assault, which I started</p> <p>3 reading and your Counsel objected, I agreed</p> <p>4 with the objection, so now we're looking at</p> <p>5 the definition on the slideshow.</p> <p>6 Have you had a chance to --</p> <p>7 you've done this presentation, you've seen</p> <p>8 this definition before; correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you agree that that's an</p> <p>11 accurate definition of sexual assault?</p> <p>12 A. Yes.</p> <p>13 Q. All right. I'm going to ask</p> <p>14 you some other questions about some of the</p> <p>15 information in the slideshow. Some might be</p> <p>16 would you agree with it, some might be other</p> <p>17 questions.</p> <p>18 On Page 00129 there's a slide</p> <p>19 entitled Sexual Assault = Sexual Harassment,</p> <p>20 and it's talking about a definition. Can you</p> <p>21 explain what's meant to be conveyed there, if</p> <p>22 you know?</p> <p>23 MR. PICCERILLI: SJU1029?</p> <p>24 THE WITNESS: Yes, this slide</p>	<p style="text-align: right;">Page 81</p> <p>1 A. I have 1035 as one. There's</p> <p>2 also 1036, 1037, 1038.</p> <p>3 Q. All right. 1036 I think is</p> <p>4 blacked out. Is that like -- do you know</p> <p>5 what is normally there or how that's --</p> <p>6 A. Yes, I believe because of the</p> <p>7 white box up top with the Consent, It's Simple</p> <p>8 as Tea, it's a video. So that may be why.</p> <p>9 Q. And what's Tea an acronym for?</p> <p>10 A. No, it's tea, like a cup of hot</p> <p>11 tea.</p> <p>12 Q. And can you explain how that's</p> <p>13 used to teach students?</p> <p>14 A. Yes, it's a simple version, I</p> <p>15 can't recall how long the video is, a rather</p> <p>16 short video, depicting stick figures and a cup</p> <p>17 of tea and creating a humorous, but not too --</p> <p>18 not humorous in terms of being insensitive to</p> <p>19 the topic, but it's a humorous way to convey</p> <p>20 consent regarding somebody's desire,</p> <p>21 willingness, consent to drink a cup of tea.</p> <p>22 Q. And that's used as a metaphor</p> <p>23 for consent involving romantic or sexual</p> <p>24 activity?</p>

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<p style="text-align: right;">Page 82</p> <p>1 A. Correct.</p> <p>2 Q. Is it your belief that,</p> <p>3 generally speaking, claims of sexual</p> <p>4 misconduct are underreported by the victims?</p> <p>5 A. That's the national research.</p> <p>6 Q. Do you believe that is true?</p> <p>7 A. I believe that the national</p> <p>8 research is sound, yes.</p> <p>9 Q. And do you believe that that</p> <p>10 also holds on SJU's campus at least during the</p> <p>11 current time frame?</p> <p>12 A. I don't know what I don't know.</p> <p>13 Q. In the consent 1038 checklist,</p> <p>14 do you see Verbal and Non-Verbal?</p> <p>15 A. Yes.</p> <p>16 Q. Briefly, tell me a little bit</p> <p>17 about the non-verbal cues. I'm going to take</p> <p>18 you through each one. What's that mean to</p> <p>19 convey?</p> <p>20 A. So you would like to take me</p> <p>21 through each one?</p> <p>22 Q. Yes. So first off, what is</p> <p>23 meant by Non-verbal Cues?</p> <p>24 A. Lack of consent without their</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes.</p> <p>2 Q. And can consent be withdrawn</p> <p>3 non-verbally?</p> <p>4 A. Yes.</p> <p>5 Q. Can you describe how students</p> <p>6 are taught to withdraw non-verbally?</p> <p>7 A. I'll give the example of</p> <p>8 someone passes out.</p> <p>9 Q. And if you can just flesh that</p> <p>10 out a little more, although I think I</p> <p>11 understand what you mean.</p> <p>12 A. Sure. If there is a situation</p> <p>13 where a student is intoxicated and they may</p> <p>14 verbally consent or non-verbally consent and</p> <p>15 then they pass out from intoxication, they are</p> <p>16 not in the position to be able to consent at</p> <p>17 that point.</p> <p>18 Q. So the passing out serves as a</p> <p>19 non-verbal withdrawal of consent?</p> <p>20 A. Correct.</p> <p>21 Q. There's some other things</p> <p>22 described, mentioned, and these are obviously</p> <p>23 in this slide by way of examples.</p> <p>24 For the record it's 1038.</p>
<p style="text-align: right;">Page 83</p> <p>1 being a verbal indication of lack of consent.</p> <p>2 Q. So there are situations in</p> <p>3 which consent could be verbal and situations</p> <p>4 where it could be non-verbal; correct?</p> <p>5 A. Yes.</p> <p>6 Q. And if consent is non-verbal,</p> <p>7 it can be changed by either verbally or</p> <p>8 non-verbally; correct?</p> <p>9 A. Can you repeat that.</p> <p>10 Q. Sure. If there's romantic or</p> <p>11 sexual activity and it was consensual, the</p> <p>12 consent was non-verbal, the person who gave</p> <p>13 the non-verbal consent could withdraw it</p> <p>14 either with a verbal or a non-verbal cue?</p> <p>15 A. Can you repeat that one more</p> <p>16 time? I'm sorry.</p> <p>17 Q. Sure.</p> <p>18 A. Or break it down for me if</p> <p>19 you're able to do that.</p> <p>20 Q. Sure. Can consent once given</p> <p>21 be withdrawn?</p> <p>22 A. Yes.</p> <p>23 Q. And it can be withdrawn</p> <p>24 verbally; correct?</p>	<p style="text-align: right;">Page 85</p> <p>1 Pushing away, what's meant by that?</p> <p>2 A. I don't know that I can</p> <p>3 describe exactly what each of these things</p> <p>4 would mean. But what we share with students</p> <p>5 is that there's a definition of consent in our</p> <p>6 policy. This presentation is not to take away</p> <p>7 any information within that policy regarding</p> <p>8 the definition of consent. It's not to --</p> <p>9 Q. I'm just asking some questions</p> <p>10 about the non-verbal cues that are shown to</p> <p>11 the students and discussed at orientation.</p> <p>12 A. Right.</p> <p>13 Q. And I want to get into that in</p> <p>14 a little further detail. So some examples</p> <p>15 listed here are, you already talked about</p> <p>16 passing out; correct?</p> <p>17 A. Yes, I did.</p> <p>18 Q. All right. And then one is</p> <p>19 freezing, sudden stop of participation. Is</p> <p>20 there any further discussion about that?</p> <p>21 A. No.</p> <p>22 Q. And what is meant to convey</p> <p>23 here as an example of a non-verbal cue?</p> <p>24 A. When an individual freezes.</p>

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<p style="text-align: right;">Page 86</p> <p>1 Q. And in that instance, if an 2 individual freezes, that should be something 3 that your partner looks at as a withdrawal of 4 consent? 5 A. It may be. 6 Q. When there are non-verbal cues, 7 is the partner supposed to read them -- strike 8 that. 9 What's the responsibility of 10 the partner as he's talking to students to 11 read non-verbal cues? 12 A. The responsibility of the party 13 is to know whether or not there is consent 14 present at all times. 15 Q. And when there's a withdrawal 16 of consent to stop; correct? 17 A. Same, yes. 18 Q. If there's a withdrawal of 19 consent and the party stops in a reasonable 20 period of time, can that still be a violation 21 of sexual misconduct? 22 A. It would depend upon the 23 circumstances. That's exactly what the 24 process is for, to determine that. It's a bit</p>	<p style="text-align: right;">Page 88</p> <p>1 the absence of a cue there would be no 2 indication? 3 MR. PICCERILLI: Objection to 4 form. You can answer the question. 5 THE WITNESS: I present to the 6 students that it is their responsibility to 7 ensure that consent is present during all 8 stages of intimacy. 9 BY MR. MIRABELLA: 10 Q. During the orientation are the 11 students -- strike that. 12 During the slideshow is the 13 presentation -- is the subject of whether the 14 people who complain of being victims of sexual 15 assault should be believed? Is that 16 specifically addressed? 17 A. In the presentation you asked? 18 Q. Yes. 19 A. Can I take a moment to look at 20 it? 21 Q. We'll take a two-minute. 22 A. Are we breaking? 23 Q. You're entitled to a break 24 whenever you want one. We can take a break so</p>
<p style="text-align: right;">Page 87</p> <p>1 more hypothetical. 2 Q. They're all pretty hypothetical 3 to be fair. 4 A. Yes. 5 Q. But there's a subjective 6 element to it and I'm trying to probe what the 7 students are told during the orientation 8 program in terms of responsibility of the 9 person giving or withdrawing consent and the 10 responsibility of the person who needs to 11 determine if consent is present. 12 So the non-verbal cues are 13 meant to sensitive the students that the 14 absence of a verbal cue does not mean that 15 there is consent, among other things? 16 A. Correct. 17 A. But there should be either a 18 verbal or non-verbal cue, that the Respondent 19 isn't expected to be a mind reader; correct? 20 A. I'm not sure what you mean by 21 mind reader. 22 Q. What does the term "cue" mean? 23 A. An indication. 24 Q. And it's an indication that in</p>	<p style="text-align: right;">Page 89</p> <p>1 you can look through the slideshow. 2 - - - 3 (Whereupon, a short break was taken at 4 this time.) 5 - - - 6 BY MR. MIRABELLA: 7 Q. We were talking about the slide 8 and I asked you some questions and we took a 9 break so you could look at the rest of the 10 slide. Can you respond to that question more 11 directly? 12 A. Yes. 13 Q. So is there anything in the 14 slide about that issue? 15 A. Slide Number 1048. 16 MR. PICCERILLI: So the witness 17 was referring to SJU1048. 18 BY MR. MIRABELLA: 19 Q. And what is germane to my 20 question? 21 A. So the first bullet states: 22 Believe! The most important thing to do is to 23 believe a victim. The slide when I present 24 is -- well, first of all, it's presented to</p>

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<p style="text-align: right;">Page 90</p> <p>1 the students and a big part of the 2 presentation is stressing the importance of 3 bystander intervention, effective bystander 4 intervention, as well as how to help friends. 5 And again, the entire 6 presentation is focused on not just sexual 7 assault, but also dating violence and stalking 8 as well. So we speak with students about how 9 to help a friend who may be in need in one of 10 these situations. 11 Q. The language that says: 12 Believe! The most important thing to do is 13 believe a victim, do you believe that's 14 accurate? 15 A. In terms of the context with 16 providing information to students with how to 17 help their friends, yes. 18 Q. Do you believe it's important 19 also as it pertains to school administrators 20 and faculty? 21 A. No. 22 Q. What's a mandatory reporter? 23 A. Under Title IX there's a 24 requirement that individuals on campus report</p>	<p style="text-align: right;">Page 92</p> <p>1 that responsibility? 2 A. At Saint Joseph's University, 3 yes, without -- with some exception in terms 4 of confidentiality. 5 Q. I guess I'm trying to get a 6 sense for this particular designation. 7 Is it used then for every 8 employee of the school is a responsible 9 employee and should be considered a 10 responsible employee with some limited 11 exceptions? 12 A. Yes, and there's information 13 about that this I know for sure in the Annual 14 Security Report and the policy. So you can 15 refer to that. 16 Q. And what are the students told, 17 if anything, about what a responsible employee 18 is? 19 A. Are you referring to this 20 PowerPoint presentation? 21 Q. Sure. During the PowerPoint 22 presentation is that subject addressed? 23 A. Can I take a minute and look? 24 Q. Of course.</p>
<p style="text-align: right;">Page 91</p> <p>1 incidents relating to Title IX. Actually, If 2 I could just correct you, it's responsible 3 employee actually. It's different from 4 mandatory reporter. I believe there's a 5 different definition for mandatory reporter. 6 That's not we refer to on Saint Joseph 7 University's campus. So I was referring 8 responsible employee. 9 Q. You've heard the term mandatory 10 reporter? 11 A. I have. 12 Q. Do you know how it fits in or 13 what's the definition of it? 14 A. I don't know specifically 15 relating to that specific definition portion. 16 Q. Are you a responsible reporter? 17 A. I am, I'm a responsible 18 employee. 19 Q. Can you tell me a little more 20 about that, what that means? 21 A. I'm responsible for reporting 22 if there are -- if any information comes to my 23 attention regarding Title IX. 24 Q. Doesn't every employee have</p>	<p style="text-align: right;">Page 93</p> <p>1 A. So on slide 1049. 2 MR. PICCERILLI: That's SJU 3 Number 1049. 4 THE WITNESS: So on slide 1049 5 there are -- there's information about Options 6 and Procedures, and responsible employee is 7 referred to in Items A, C and D. 8 BY MR. MIRABELLA: 9 Q. And is the term defined on that 10 slide or no? 11 A. It is not. It refers to 12 details for each reporting option and it 13 refers to a website. 14 Q. As a responsible employee, are 15 you provided any specific training, or do you 16 sign a document or a contract confirming that 17 you're familiar with the process of being a 18 responsible employee? 19 A. I recall a training, an online 20 training that I participated in as an employee 21 of the University. I can't recall the 22 specifics around the information related to 23 responsible employee or if I had any sort of 24 electronic signature associated with that</p>

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<p style="text-align: right;">Page 94</p> <p>1 online training.</p> <p>2 Q. Who is currently the Director,</p> <p>3 if there is one, of the Rape Education and</p> <p>4 Prevention Program?</p> <p>5 A. I don't know if it would -- I</p> <p>6 don't know if the official title is Director,</p> <p>7 but there is an advisor of the Rape Education</p> <p>8 and Prevention Program, and that's Dr. Raquel</p> <p>9 Bergen.</p> <p>10 Q. It's my understanding that</p> <p>11 Katie Bean works in the Office of Outreach and</p> <p>12 Support?</p> <p>13 A. Outreach and Support, yes.</p> <p>14 Q. And then does she work with or</p> <p>15 under Marci Berney?</p> <p>16 A. Yes, she reports to Marci</p> <p>17 Berney. Yes.</p> <p>18 Q. And I know it's not your</p> <p>19 office, but are you familiar with the Campus</p> <p>20 Climate Survey?</p> <p>21 A. I'm familiar with the survey,</p> <p>22 yes.</p> <p>23 Q. What is it a survey about?</p> <p>24 A. I engage in the survey as a</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. MIRABELLA: Correct.</p> <p>2 THE WITNESS: Not to my</p> <p>3 knowledge.</p> <p>4 BY MR. MIRABELLA:</p> <p>5 Q. Does Ms. Berney's office</p> <p>6 tabulate the data they receive from the</p> <p>7 surveys, do you know?</p> <p>8 A. I do not know. But as far as I</p> <p>9 am concerned and what I do know, I</p> <p>10 participated in one as an employee a year or</p> <p>11 so ago, and that was not out of Student</p> <p>12 Outreach and Support.</p> <p>13 Q. The link on slide 1051,</p> <p>14 that's -- I guess is that just for taking a</p> <p>15 test to determine how much content the</p> <p>16 participant retained?</p> <p>17 A. Yes, you'll see on slide</p> <p>18 SJU001010 there's a pre test and a post test.</p> <p>19 So as soon as the students come to the session</p> <p>20 they're asked to open their phones, take a</p> <p>21 quick pre test and upon conclusion of the</p> <p>22 session take out their phones again and take a</p> <p>23 post test.</p> <p>24 Q. One of the slides references a</p>
<p style="text-align: right;">Page 95</p> <p>1 respondent in the survey. I had nothing to do</p> <p>2 with the design of the survey or</p> <p>3 implementation of the survey.</p> <p>4 Q. Correct, but what were the</p> <p>5 types of questions asked about on the survey?</p> <p>6 A. I believe questions about, I</p> <p>7 want to say general climate questions.</p> <p>8 Q. Since I haven't the slightest</p> <p>9 idea what that refers to, if you can just tell</p> <p>10 me.</p> <p>11 A. It's pretty broad. It's</p> <p>12 related to feelings about your involvement in</p> <p>13 decision making at the University, parking at</p> <p>14 the University, diversity issues, inclusion</p> <p>15 and diversity issues on campus.</p> <p>16 Q. Did it also have questions, if</p> <p>17 you recall, in areas involving physical</p> <p>18 security or safety?</p> <p>19 A. I don't recall.</p> <p>20 Q. When did do -- are they done</p> <p>21 every year?</p> <p>22 A. Not to my knowledge.</p> <p>23 MR. PICCERILLI: You mean are</p> <p>24 the surveys conducted every year?</p>	<p style="text-align: right;">Page 97</p> <p>1 false reporting rate of eight percent for</p> <p>2 claims of sexual misconduct.</p> <p>3 MR. PICCERILLI: Do you want to</p> <p>4 find the slide?</p> <p>5 MR. MIRABELLA: Sure.</p> <p>6 THE WITNESS: 1031.</p> <p>7 MR. PICCERILLI: SJU 1031.</p> <p>8 BY MR. MIRABELLA:</p> <p>9 Q. Do you know any of the sources</p> <p>10 of information for that statistic?</p> <p>11 A. I'm sorry, can you --</p> <p>12 Q. Sure. Do you know where that</p> <p>13 comes from? There's a FBI reference here, but</p> <p>14 do you know anything about the Uniform Crime</p> <p>15 Report or anything like that?</p> <p>16 A. Nothing beyond what's presented</p> <p>17 here, no.</p> <p>18 Q. Do you have a belief or</p> <p>19 understanding as to the frequency of false</p> <p>20 reporting consistent or inconsistent with the</p> <p>21 eight percent referenced here?</p> <p>22 A. Again, I would answer similar</p> <p>23 to how I answered the other question. This is</p> <p>24 research that I would believe is sound</p>

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<p style="text-align: right;">Page 98</p> <p>1 research.</p> <p>2 Q. And do you know when that</p> <p>3 research was done?</p> <p>4 A. I do not.</p> <p>5 Q. Is there any talk during the</p> <p>6 slideshow or orientation about students</p> <p>7 reporting misconduct other than issues</p> <p>8 involving harassment or sexual misconduct?</p> <p>9 A. Yes, as I mentioned, it's also</p> <p>10 regarding dating violence and stalking within</p> <p>11 sexual misconduct, yes.</p> <p>12 Q. To your knowledge, as the</p> <p>13 Assistant Vice President of Student Life, are</p> <p>14 there any presentations given to the students</p> <p>15 that talk about the need to report substance</p> <p>16 abuse or excessive alcohol use, things of that</p> <p>17 nature, which I believe falls outside of this</p> <p>18 selection, well, generally speaking, it</p> <p>19 doesn't involve sexual misconduct, outside of</p> <p>20 the slideshow?</p> <p>21 A. There is another session during</p> <p>22 New Student Orientation dedicated to alcohol</p> <p>23 and drug.</p> <p>24 Q. And how is that session</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Tell me a little bit about the</p> <p>2 2017 grant application for the grant directed</p> <p>3 to the Office of Violence against Women and</p> <p>4 your role in putting together the</p> <p>5 application.</p> <p>6 A. So I was the lead author. I</p> <p>7 worked with a small team to apply for the</p> <p>8 grant early January or early 2017. We</p> <p>9 applied, we were awarded the grant. We</p> <p>10 received notification late September of 2017.</p> <p>11 Q. When did you start working on</p> <p>12 the grant application?</p> <p>13 A. I can't recall the specific</p> <p>14 date, but the solicitation for it comes out</p> <p>15 maybe about six weeks or so before the</p> <p>16 deadline.</p> <p>17 Q. And what do you mean by</p> <p>18 solicitation?</p> <p>19 A. When the Office on Violence</p> <p>20 Against Women actually published that there</p> <p>21 was going to be a grant and was accepting</p> <p>22 applications and what the requirements were.</p> <p>23 Q. And do you know how many grants</p> <p>24 there were?</p>
<p style="text-align: right;">Page 99</p> <p>1 conducted, just briefly?</p> <p>2 A. I did not present that session</p> <p>3 this year. I don't recall if I presented it</p> <p>4 last year as well.</p> <p>5 Q. Is it done for all freshmen?</p> <p>6 A. During New Student Orientation,</p> <p>7 yes.</p> <p>8 Q. Do they use a slideshow?</p> <p>9 A. I don't know specifically. I</p> <p>10 was not involved with that.</p> <p>11 Q. Who was involved with that?</p> <p>12 A. Katie Bean facilitated that</p> <p>13 session.</p> <p>14 Q. And do you know one way or the</p> <p>15 other if there's anything talked about during</p> <p>16 that session regarding the responsibility to</p> <p>17 intervene or to report as it pertains to other</p> <p>18 students?</p> <p>19 A. I do not know.</p> <p>20 Q. SJU has on its website a "You</p> <p>21 Are Not Alone" platform or section or dropdown</p> <p>22 box or link. Do you have any familiarity with</p> <p>23 that?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 101</p> <p>1 A. I do not know that offhand.</p> <p>2 Q. Did you know if SJU applied for</p> <p>3 that grant or a similar grant from the Office</p> <p>4 of Violence Against Women before?</p> <p>5 A. Yes, I was the lead author the</p> <p>6 previous year applying for the same grant,</p> <p>7 and we were not awarded it.</p> <p>8 Q. And had you applied for it any</p> <p>9 other years?</p> <p>10 A. I did not, no.</p> <p>11 Q. When you were speaking to other</p> <p>12 members of the SJU community, how would you</p> <p>13 describe the purpose of applying for the</p> <p>14 grant, the reasons behind it?</p> <p>15 A. When you say -- what do you</p> <p>16 mean by -- you mean people at the University?</p> <p>17 Q. Oh, not someone on your team,</p> <p>18 but somebody who wants to know the process,</p> <p>19 how would you explain why you were working on</p> <p>20 the grant application?</p> <p>21 MR. PICCERILLI: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: Looking for</p> <p>24 funding to support our effort related to</p>

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<p style="text-align: right;">Page 102</p> <p>1 sexual misconduct.</p> <p>2 BY MR. MIRABELLA:</p> <p>3 Q. This application was in 2017.</p> <p>4 You described one in 2016 that did not result</p> <p>5 in a grant. Had you done an application</p> <p>6 before then?</p> <p>7 MR. PICCERILLI: For this</p> <p>8 particular grant?</p> <p>9 MR. MIRABELLA: Yes.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MR. MIRABELLA:</p> <p>12 Q. Do you know if this particular</p> <p>13 grant was even available before then?</p> <p>14 A. I do not know.</p> <p>15 Q. Had you applied for other</p> <p>16 similar grants before 2016?</p> <p>17 A. No.</p> <p>18 Q. And when say for our work, in</p> <p>19 terms of the purpose of applying for the</p> <p>20 grant, can you be more specific?</p> <p>21 A. Primarily looking at prevention</p> <p>22 and education related to sexual misconduct.</p> <p>23 Q. I asked you some questions</p> <p>24 earlier, I want to circle back, we might have</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Do you know what changed --</p> <p>2 strike that.</p> <p>3 What was the primary difference</p> <p>4 between the 2016 and the 2017 application?</p> <p>5 When I say primary difference,</p> <p>6 if not primary, what ways were the</p> <p>7 applications handled differently?</p> <p>8 A. I don't remember all the</p> <p>9 specifics. I recall there being interest in</p> <p>10 having, and this was feedback from OVW, I</p> <p>11 believe, to secure an MOU, a Memorandum of</p> <p>12 Understanding, with our local DA, District</p> <p>13 Attorney's Office. Also some formatting,</p> <p>14 quite honestly, formatting of the application</p> <p>15 itself, being a bit more organized. They were</p> <p>16 two substantive changes that I recall from</p> <p>17 2016 to the 2017 application.</p> <p>18 Q. Did the 2016 application</p> <p>19 include both external and internal Memorandum</p> <p>20 of Understanding?</p> <p>21 A. Yes, that was a requirement.</p> <p>22 Q. And so the addition of the</p> <p>23 Memorandum of Understanding from the DA's</p> <p>24 Office was just one additional external</p>
<p style="text-align: right;">Page 103</p> <p>1 been talking about apples or oranges.</p> <p>2 So there was a grant</p> <p>3 application done in 2016 for funding in</p> <p>4 connection with the prevention and education</p> <p>5 pertaining to sexual misconduct on campus;</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And the purpose of the</p> <p>9 application was to obtain funding to increase</p> <p>10 prevention and education on the campus?</p> <p>11 A. I did not say increase.</p> <p>12 Q. Okay, I'm sorry. The purpose</p> <p>13 of the application was to secure funding?</p> <p>14 A. Correct.</p> <p>15 Q. And the funding was expected to</p> <p>16 be used for activities related to the</p> <p>17 prevention and education as pertaining to</p> <p>18 sexual misconduct?</p> <p>19 A. Correct.</p> <p>20 Q. And I go back to had there been</p> <p>21 increase in the reports, for instance, of</p> <p>22 sexual misconduct in 2014 or 2015 that played</p> <p>23 into the decision to seek the grant?</p> <p>24 A. Not that I can recall, no.</p>	<p style="text-align: right;">Page 105</p> <p>1 Memorandum of Understanding?</p> <p>2 A. Correct.</p> <p>3 Q. Who did the leg work in</p> <p>4 connection with putting together of the</p> <p>5 Memorandum of Understanding?</p> <p>6 MR. PICCERILLI: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: What do you mean</p> <p>9 by leg work?</p> <p>10 BY MR. MIRABELLA:</p> <p>11 Q. Sure. Those Memorandum seemed</p> <p>12 to have been the result of meetings between</p> <p>13 SJU and groups on the SJU campus or outside</p> <p>14 the SJU campus about goals and campus safety.</p> <p>15 Did any one person have</p> <p>16 responsibility for going forward with creating</p> <p>17 and executing on the Memorandum of</p> <p>18 Understanding that you had in the grant</p> <p>19 application?</p> <p>20 Q. I spearheaded much of the</p> <p>21 effort. There were not significant meetings</p> <p>22 for the most part, if at all. We had really</p> <p>23 good relationships in place already with the</p> <p>24 individuals that were listed on the MOU.</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q. And were those relationships in 2 place even going back to 2016? 3 A. What specific relations? There 4 were many relationships through those MOUs. 5 Q. Sure. I assume many of the 6 internal and external MOUs were used in 2016 7 and 2017? 8 A. Yes. 9 Q. And so they had to be renewed 10 or they had to be updated, but they weren't 11 created from scratch? 12 A. Correct. 13 Q. And you mentioned external 14 memorandum with the DA's office that was used 15 in 2017? 16 A. Correct. 17 Q. By the way, was that Philly or 18 Montgomery County? 19 A. Philly. 20 Q. And when you say you 21 spearheaded any of the Memorandums, can you 22 tell me how you went about doing that? 23 A. Sure. When I was saying that 24 we had relationships in place it was even</p>	<p style="text-align: right;">Page 108</p> <p>1 some questions about it. 2 A. Okay. 3 Q. Am I correct this is a grant 4 application for the grant applied for in 5 connection with the Office of Violence Against 6 women that SJU was awarded? 7 A. Yes. 8 Q. I want you to take a minute to 9 look through it and I'm going to ask you some 10 questions about it. 11 A. (Witness reviews document.) 12 Q. Have you had a chance to review 13 that? 14 A. Briefly, yes. 15 Q. Dr. White, my first question 16 is: Is this what appears to be the grant 17 application we were discussing? 18 A. The 2017 grant application, 19 yes. 20 Q. Where, if you were asked, would 21 you say best captures the purpose of seeking 22 the grant in the application? Is it in the 23 grant application itself, is it in the 24 Memorandum of Understanding or is it in a</p>
<p style="text-align: right;">Page 107</p> <p>1 prior to the 2016 application. So in many 2 ways this was formalizing our already existing 3 relationships with many of our internal and 4 external partners. 5 In most instances there were 6 individuals that I knew and had maybe even 7 previously worked with in some capacity. So 8 calls were made and we had a discussion around 9 the objective of the grant and whether or not 10 they would be willing to be a partner on 11 our -- what would be a newly created 12 coordinated community response team if we were 13 to receive the grant. 14 Q. Were you a signatory to any of 15 the Memoranda? 16 A. Yes. 17 Q. Some, all, which one? 18 A. Definitely the internal. I 19 can't recall if I was the signatory on the 20 external or not. 21 Q. I'm going to hand you, but not 22 mark as an exhibit, SJU 1089 through 1174. 23 The top sheet of the document says Grant 24 Application Package. I'm going to ask you</p>	<p style="text-align: right;">Page 109</p> <p>1 number of different places? 2 A. I think it's the collective 3 application as a whole. 4 Q. So let me direct your attention 5 to one of the Memorandums of Understanding, 6 SJU 1151. Are you with me? 7 A. Yes, I am. 8 Q. In the first paragraph about 9 halfway down it says: The MOU formalizes? 10 A. Yes. 11 Q. Can you read that into the 12 record so I can ask you some questions. Just 13 read it right to the end of the paragraph. 14 A. Okay: The MOA formalizes the 15 commitment of a task force to work together to 16 enhance victim safety, provides services for 17 victims, support efforts to hold offenders 18 accountable, improve lines of communication, 19 streamline efforts and increase awareness 20 related to sexual assault, domestic violence, 21 dating violence and stalking (sexual 22 violence). All the partners have agreed that 23 by joining this MOU they will work in 24 coordination as well as individually to affirm</p>

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<p style="text-align: right;">Page 110</p> <p>1 that, one, sexual violence is a group of 2 serious offenses that will not be tolerated, 3 and two, holistic professional and 4 individualized services are available to 5 victims through a comprehensive coordinated 6 community approach. 7 Q. All right. So in the beginning 8 of the sentence where it says: The MOA 9 formalizes the commitment of a task force to 10 work together to enhance victim safety, I 11 assume the term victim safety refers to 12 somebody who has already been victimized? 13 A. Correct, different than a 14 Complainant going through the process in terms 15 of -- yes. 16 Q. I'm sorry, say that again. 17 A. Different than how I would 18 define Complainant in terms of somebody going 19 through the process who has been reported to 20 have been involved in a situation. I see the 21 distinction between those two terms. 22 Q. And what would be an example of 23 a somebody who is a victim, but not going 24 through the process?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. No. 2 Q. Do you believe that -- well, in 3 what respect would the grant money as is set 4 forth here through your lens be used to help 5 hold -- to support efforts to hold offenders 6 accountable? 7 A. Again, I would point to Lines 8 of Communication, .6 here. 9 Q. Anything else come to mind? 10 A. I'm just looking through here. 11 No, not at this time. 12 Q. So this was one of multiple -- 13 am I correct that that's one of the multiple 14 Memorandums of Understanding that were used to 15 support the grant? 16 A. There were two MOAs used. 17 Q. One is internal and one is 18 external? 19 A. Correct. 20 Q. I misunderstood your earlier 21 answer, but there was also an external 22 Memorandum of Understanding in 2016, but the 23 Philadelphia DA was not a signatory; is that 24 correct?</p>
<p style="text-align: right;">Page 111</p> <p>1 A. From my lens in terms of my 2 work with student conduct, the Complainant -- 3 or the Respondent and Complainant is used 4 because there's not yet been a decision on 5 whether or not the individual is responsible 6 for the conduct that's being alleged. 7 Q. Understood. The next clause is 8 provides services for victims; correct? 9 A. Yes. 10 Q. And generally speaking, what is 11 meant by that? 12 A. Support services. Yes, I would 13 say support services. 14 Q. And then the next section: 15 Support efforts to hold offenders 16 accountable. Do you see that? 17 A. Yes. 18 Q. What is meant by that? 19 A. So training in terms of the 20 process, that kind of thing. 21 Q. As of February 23, 2017, do you 22 believe that the plan, current plan in place 23 to hold offenders accountable was inadequate 24 or was not functioning well?</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Correct. 2 Q. Did you believe as part of the 3 application process that there was a growing 4 need on the SJU Campus to respond effectively 5 to claims of sexual assault? 6 A. Can you repeat that. 7 Q. Sure. Did you believe as part 8 of your application and part of preparing the 9 MOUs that there was a growing need to respond 10 effectively to claims of sexual assault on the 11 SJU campus? 12 A. No, I would not say that there 13 was necessarily a growing need to do so. 14 Q. Were there monthly meetings 15 mandated under the Memorandum of Understanding 16 to respond effectively to claims of sexual 17 assault? 18 A. Are you referring to what was 19 submitted as part of the application or what 20 is in practice currently? 21 Q. Was part of the application. I 22 believe it's 1074. Well, actually it starts 23 at 1089. Bear with me. I don't believe you 24 have 1074 in front of you. It wasn't a trick</p>

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<p style="text-align: right;">Page 114</p> <p>1 question.</p> <p>2 A. Oh, no, sorry, I was looking at</p> <p>3 1174. No, I do not.</p> <p>4 Q. So I asked you a question and</p> <p>5 you asked me it clarify about existing policy</p> <p>6 for the grant application. So I'll give you</p> <p>7 what's been marked as SJU 1074. You'll</p> <p>8 welcome to see what's before it or what's</p> <p>9 after it, and it talks about the Campus</p> <p>10 Anti Violence Coalition and the Campus Anti</p> <p>11 violence Task Force.</p> <p>12 A. Thank you.</p> <p>13 Q. And my question was about</p> <p>14 monthly meetings, and this was part of the</p> <p>15 Memorandum of Understanding that was submitted</p> <p>16 with the grant application.</p> <p>17 MR. PICCERILLI: Take a minute</p> <p>18 to read it.</p> <p>19 THE WITNESS: And this is not a</p> <p>20 part of this?</p> <p>21 BY MR. MIRABELLA:</p> <p>22 Q. No, it is. It is not part of</p> <p>23 the pages that I handed you, but I believe</p> <p>24 it's a Memorandum of Understanding that was</p>	<p style="text-align: right;">Page 116</p> <p>1 the purpose, one of the purposes of the grant</p> <p>2 was to form this.</p> <p>3 So if I may just offer that the</p> <p>4 application projected and assumed that certain</p> <p>5 things may be part of what the grant funding</p> <p>6 would go to, and then there was another</p> <p>7 process that took place in terms of finalizing</p> <p>8 that, finalizing a budget and that type of</p> <p>9 thing.</p> <p>10 So looking at this now from</p> <p>11 where we are on this end of things I will say</p> <p>12 that some of this is different, even including</p> <p>13 the name of what we proposed as a coalition.</p> <p>14 Q. And as part of the grant</p> <p>15 application, has SJU affirmed that it will</p> <p>16 comply with certain Federal statutes including</p> <p>17 Title IX and others?</p> <p>18 A. Correct.</p> <p>19 Q. Was it ever your expectation</p> <p>20 that if SJU received the grant and implemented</p> <p>21 the measures it described in the grant</p> <p>22 application that there would be an increase in</p> <p>23 the amount of reports of sexual misconduct?</p> <p>24 A. I don't recall.</p>
<p style="text-align: right;">Page 115</p> <p>1 part of the grant application.</p> <p>2 Doctor, what page do you have,</p> <p>3 the separate page pulled out?</p> <p>4 A. That's where I looking for this</p> <p>5 context. It seems like it is 1139.</p> <p>6 Q. My first question is: Was that</p> <p>7 something that was intended as information as</p> <p>8 to what Saint Joe's was going to do with the</p> <p>9 grant application funds or something that was</p> <p>10 already in place, or neither?</p> <p>11 A. Can I have a moment to look at</p> <p>12 this?</p> <p>13 Q. Oh, yes.</p> <p>14 A. (Witness reviews document.)</p> <p>15 Can you repeat the question.</p> <p>16 Q. Oh, sure. The monthly</p> <p>17 meetings, was that already taking place or is</p> <p>18 that something that SJU was making part of its</p> <p>19 application as a new feature if it received</p> <p>20 the grant?</p> <p>21 A. So I think -- so the monthly</p> <p>22 meetings were not taking place because the</p> <p>23 Campus Anti Violence Coalition was not</p> <p>24 formulated yet in a formal capacity. That was</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. I want to ask you some</p> <p>2 questions about something that was published</p> <p>3 in The Hawk attributed to Dr. Perry, not to</p> <p>4 you. We'll mark this as Exhibit 2.</p> <p>5 ---</p> <p>6 (Whereupon, Exhibit White-2 was marked</p> <p>7 for identification.)</p> <p>8 ---</p> <p>9 BY MR. MIRABELLA:</p> <p>10 Q. Dr. White, what's The Hawk</p> <p>11 Newspaper?</p> <p>12 A. It's the student newspaper on</p> <p>13 campus.</p> <p>14 Q. And I apologize, the copying is</p> <p>15 getting -- the Xerox is getting a little</p> <p>16 thin. Can you read the article written or see</p> <p>17 the article written by Charley Rekstis</p> <p>18 beginning on what's marked as page 2 of 9?</p> <p>19 A. Yes, I cannot read the words</p> <p>20 within the picture.</p> <p>21 Q. Neither can I. I'm not going</p> <p>22 to ask you about the words in the picture.</p> <p>23 It's an article talking about</p> <p>24 the OVW grant we are discussing now; is that</p>

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<p style="text-align: right;">Page 118</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Is the individual you</p> <p>4 identified earlier the Prevention Specialist</p> <p>5 referred to by Dr. Perry in the last</p> <p>6 paragraph, first sentence?</p> <p>7 MR. PICCERILLI: Are you on</p> <p>8 Page 2 of 9?</p> <p>9 MR. MIRABELLA: Yes.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. MIRABELLA:</p> <p>12 Q. Who was that again?</p> <p>13 A. Christopher Morrin.</p> <p>14 Q. All right. I'm going to turn</p> <p>15 your attention to the next page and ask you</p> <p>16 some questions about the information reported</p> <p>17 in the article.</p> <p>18 The first paragraph: The</p> <p>19 university applied unsuccessfully for this</p> <p>20 grant last year, that's correct?</p> <p>21 A. Correct.</p> <p>22 Q. It says: However, on this</p> <p>23 attempt they tried a different approach,</p> <p>24 directly addressing issues of sexual assault</p>	<p style="text-align: right;">Page 120</p> <p>1 work is to prevent sexual misconduct from</p> <p>2 occurring at the campus.</p> <p>3 Do you agree with that?</p> <p>4 A. I don't know what she's</p> <p>5 referring to in terms of all of this work.</p> <p>6 Q. The talk is about the grant</p> <p>7 funds and about how they will be utilized, I</p> <p>8 believe.</p> <p>9 But do you agree that the goal</p> <p>10 of obtaining the grant funds was to enhance</p> <p>11 the work of preventing sexual misconduct?</p> <p>12 A. It was to support our efforts,</p> <p>13 as I mentioned before.</p> <p>14 Q. You have to finish the</p> <p>15 sentence, support our efforts in?</p> <p>16 A. Toward the work of sexual</p> <p>17 misconduct, prevention and education on</p> <p>18 campus.</p> <p>19 Q. And then Dr. Perry is quoted as</p> <p>20 saying: Our expectation is that initially we</p> <p>21 will have more reports of sexual misconduct</p> <p>22 because students will be aware of what it is</p> <p>23 and options they have for reporting.</p> <p>24 Do you agree with that?</p>
<p style="text-align: right;">Page 119</p> <p>1 on Saint Joe's campus.</p> <p>2 Do you know, number one, what's</p> <p>3 meant by that and, number two, if that's</p> <p>4 accurate?</p> <p>5 A. I do not know what's meant by</p> <p>6 that.</p> <p>7 Q. That deletes the question to</p> <p>8 number two, okay.</p> <p>9 Do you agree Dr. Perry quoted,</p> <p>10 at least in the article: We applied for this</p> <p>11 grant to support our efforts to keep our</p> <p>12 students safe and to educate our community.</p> <p>13 Do you agree with that as</p> <p>14 motivation for applying for the grant?</p> <p>15 A. Yes.</p> <p>16 Q. And the article goes on to say</p> <p>17 without quotes: The grant will be used to</p> <p>18 educate students so they have a deeper</p> <p>19 understanding and better opportunities for</p> <p>20 raising awareness of sexual assault.</p> <p>21 Do you agree with that as well?</p> <p>22 A. That's part of it.</p> <p>23 Q. Okay. And then Dr. Perry is</p> <p>24 quoted again: The ultimate goal of all this</p>	<p style="text-align: right;">Page 121</p> <p>1 A. Where are you at? I'm sorry.</p> <p>2 Q. Sure. I would say the fourth</p> <p>3 paragraph, the last sentence.</p> <p>4 A. Okay.</p> <p>5 Q. The last sentence of a quote</p> <p>6 from -- another quote from Dr. Perry.</p> <p>7 I guess -- I'll read you the</p> <p>8 whole quote: The more students understand</p> <p>9 what it is, how it happens and how each of us</p> <p>10 can play a part to prevent it, the safer our</p> <p>11 campus will be.</p> <p>12 Do you agree with that?</p> <p>13 A. Again, this is hard, this is</p> <p>14 difficult for me because there are pronouns in</p> <p>15 here, what it is, how it happens.</p> <p>16 Q. Sexual misconduct.</p> <p>17 MR. PICCERILLI: Well, you're</p> <p>18 asking her to assume what you have just</p> <p>19 indicated what "it" was. So I object to the</p> <p>20 form of the question.</p> <p>21 MR. MIRABELLA: Sure.</p> <p>22 BY MR. MIRABELLA:</p> <p>23 Q. Reading from the paragraph</p> <p>24 above it and the next paragraph starting</p>

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<p style="text-align: right;">Page 122</p> <p>1 with: The ultimate goal, I can ask you the 2 same question and put it into context. 3 A. And I question the first 4 sentence as well, to be honest, in terms of 5 all of this work. So it's hard to read into 6 somebody's quote when there's not very 7 descriptive language being used. 8 Q. Did you have any reason to 9 believe that there would be an increase in 10 reports of sexual misconduct after the grant 11 funds were obtained and efforts and measures 12 and education was put into place as described 13 in the grant? 14 A. Specifically because of the 15 grant, no, not necessarily. 16 Q. And then Dr. Perry is quoted 17 again as saying: That approximately 700 women 18 at Saint Joe's will have been sexually 19 assaulted during their college career. She 20 only gets 10 to 15 reports a year. 21 Is that consistent with the 22 numbers you've seen with your involvement in 23 student discipline? 24 A. I don't feel like I could</p>	<p style="text-align: right;">Page 124</p> <p>1 act, it's not consensual. 2 Do you believe that's an 3 accurate description of sexual assault? 4 MR. PICCERILLI: Objection to 5 form. 6 THE WITNESS: Not in its 7 entirety, no. 8 BY MR. MIRABELLA: 9 Q. And what is it that's omitted 10 that it's not in its entirety? 11 A. I would refer to the policy 12 definition that we have that I don't have in 13 front of me right now. 14 Q. Do you know or do you recall, 15 did you have any part in the drafting of the 16 definition of sexual assault in the interim 17 policy or the SMP? 18 A. I don't recall. 19 - - - 20 (Whereupon, Exhibit White-3 was marked 21 for identification.) 22 - - - 23 BY MR. MIRABELLA: 24 Q. Dr. White, this is a</p>
<p style="text-align: right;">Page 123</p> <p>1 comment on that right now without having 2 information in front of me. 3 Q. And this article apparently was 4 done following a panel event involving I guess 5 Dr. Bergen who was at the time the Rape 6 Education and Prevention Program person, and 7 Dr. Perry, and there are students listed as 8 well who I won't name. 9 Were you involved in that 10 panel? 11 A. I don't believe so. 12 Q. And then there's reference to 13 something said by a student, who I won't name, 14 I'm going to ask you, she's quoted -- 15 MR. PICCERILLI: What page are 16 you on? 17 MR. MIRABELLA: I'm sorry, Page 18 4 of 9, toward the top of the page. 19 BY MR. MIRABELLA: 20 Q. The quote is: I think that a 21 lot of us think that sexual assault has to be 22 this really violent brutal crime to be called 23 sexual assault or to be called rape, but in 24 reality it's really just an unwanted sexual</p>	<p style="text-align: right;">Page 125</p> <p>1 compilation of some printouts that were 2 provided in discovery. There's 1331, 1332 and 3 then I guess flipped upside down is 1333 and 4 1334 and then 1361, I'm assuming 1362. 5 They're not stapled together with any 6 particular method in mind or order. 7 I'm going to ask some questions 8 about one of the printouts, and I guess that 9 would be the 1361 and 1362. That happens to 10 have been the most recent. 11 If you look on the second to 12 the next page, Doctor, on the side you can see 13 the Bates label number? 14 A. Yes, I have the right pages. 15 Q. Are you familiar with this type 16 a report? 17 A. With this exact form, I do not 18 recall, no. 19 Q. Are you familiar enough to say 20 this appears to be something from the StarRez 21 system? 22 A. Yes. 23 Q. And it's difficult to read, but 24 on the first page at the bottom of the list it</p>

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<p style="text-align: right;">Page 126</p> <p>1 says Printed Saturday July 7, 2018, 7:00 p.m. 2 by W Bordak? 3 A. Correct. 4 Q. Do you know if that means the 5 user ID to get into the system or the person 6 who printed it was W Bordak? 7 A. I can't say that for sure. 8 Q. Have you ever printed a report 9 out? 10 A. Yes. 11 Q. Does it show up -- does it have 12 any identifier on it to show you're the one 13 that printed it? 14 A. I don't know. 15 Q. Do you have an understanding 16 whether this constitutes all of the claims of 17 sexual misconduct that were investigated 18 and/or reported to the Office of Community 19 Standards? 20 MR. PICCERILLI: Objection to 21 form. 22 THE WITNESS: I do not know. I 23 don't know what went into the design of this 24 report.</p>	<p style="text-align: right;">Page 128</p> <p>1 are shared with the Title IX Coordinator and 2 for one reason or another are not shared with 3 the Community Standards Office. 4 Q. Do you know what any of those 5 one reasons or another is? 6 A. There could be a non-student 7 Respondent, for example. 8 Q. Are there any other examples 9 that come to mind? 10 A. Non -- well, similarly, I'm 11 thinking non-SJU affiliated Respondent and 12 faculty or staff member Respondent. 13 Q. If it's a SJU student 14 Respondent, but occurs off campus, is that 15 always shared with Community Standards? 16 A. Yes. 17 Q. Are all claims of sexual 18 misconduct reported to the Office of Community 19 Standards communicated to the Office of Campus 20 Safety? 21 A. Can you repeat that again? 22 Q. Sure. Are all claims of sexual 23 misconduct reported to the Office of Community 24 Standards reported to the Office of Campus</p>
<p style="text-align: right;">Page 127</p> <p>1 BY MR. MIRABELLA: 2 Q. Does the Office of community 3 Standards maintain records on claims of sexual 4 misconduct? 5 A. Yes. 6 Q. Does any other office maintain 7 records on claims of sexual misconduct? 8 A. I believe so. 9 Q. And the other office is the 10 Title IX Coordinator? 11 A. That's the one that I'm 12 thinking of, yes. 13 Q. Are you aware of any other 14 office? 15 A. I'm not aware. 16 Q. And what's your understanding 17 as to whether -- what records are kept in the 18 Title IX Office verses what records are kept 19 in the Community Standards Office or are they 20 duplicative? 21 A. I don't know that I know 22 everything because I don't know what I don't 23 know in terms of at least the Title IX. So I 24 do understand that there may be reports that</p>	<p style="text-align: right;">Page 129</p> <p>1 Safety -- 2 A. Public Safety. 3 Q. Public Safety as well? 4 A. I believe so. 5 Q. Are all claims of sexual 6 misconduct reported to the Office of Community 7 Standards that occurred on campus affiliated 8 events reported under the Clery Act? 9 A. Can you repeat that one more 10 time? 11 Q. Sure. Are all claims of sexual 12 misconduct that are reported to the Office of 13 Community Standards reported under the Clery 14 Act? 15 A. No. 16 Q. Under what circumstances are 17 sexual misconduct claims not reported under 18 the Clery Act? 19 A. So this is, you know, by 20 definition of the Clery Act, how the law is 21 defined. There are geographic locations, for 22 example, for which one would not be 23 reported -- would not be Clery reportable. 24 Q. Are there any other</p>

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<p style="text-align: right;">Page 130</p> <p>1 distinguishable factors other than the claim 2 of sexual misconduct? 3 A. Definition, the crime 4 definition. 5 Q. And what do you mean by that? 6 A. There are Clery crime 7 definitions. So the Clery Act defines which 8 crime category under which definition and 9 which locations are Clery reportable. 10 Q. And are the Clery crime 11 definitions of sexual assault different than 12 the Sexual Misconduct Policy definitions? 13 A. I would have to look at that to 14 see. I don't know if I know that offhand. 15 Q. What are the general categories 16 under Clery? 17 A. In terms of what? 18 Q. Claims for sexual misconduct. 19 A. Can you repeat that? 20 Q. Sure. I was going back to 21 something I thought you said in your answer, 22 which is Clery has its own definitions and 23 categories of sexual assault or sexual 24 misconduct; correct?</p>	<p style="text-align: right;">Page 132</p> <p>1 misconduct occurs on campus, is it reportable 2 under the Clery Act? 3 A. If it occurs on campus you 4 said? 5 Q. Yes. 6 A. Yes, as defined by the Clery 7 Act definition on campus. There are very 8 specific Clery geography definitions. 9 Q. And if it occurs off campus it 10 would depend on a particular definition of 11 that location as applied to the Clery Act? 12 A. Correct. 13 Q. Is it reasonable to conclude 14 that most years there's less Clery Act 15 reported sexual misconduct cases than there 16 are reported to the Office of Community 17 Standards? 18 A. Can you say that again? 19 Q. Sure. It seems to me that not 20 every case that's reported to Community 21 Standards is going to be reported under the 22 Clery Act; correct? 23 A. Correct, depending upon the 24 geography, the location, yes, in the category.</p>
<p style="text-align: right;">Page 131</p> <p>1 A. I don't know if it's their own 2 definitions, but they are defined under the 3 Clery Act. There are crimes defined within 4 the Clery Act, and so by virtue of them being 5 defined and by the location is what 6 constitutes something being Clery reportable 7 or not. 8 Q. Who at the University is 9 responsible for determining whether something 10 is reportable or not? 11 A. The Office of Public Safety. 12 Q. Do you ever get involved in 13 consulting or discussing when something is 14 reportable under the Clery Act with that 15 office? 16 A. No, I'm not a part of those 17 conversations. 18 Q. Given the description that was 19 provided as to what's reportable, what are the 20 geographical limitations or considerations for 21 the Clery Act as pertaining to the school? 22 A. As it pertains to the school 23 specifically? 24 Q. Sure. So if a claim of sexual</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Are there any cases that are 2 reported under the Clery Act that would not be 3 reported to the Office of Community Standards 4 or the Title IX Coordinator Office? 5 A. I cannot speak for the Title IX 6 Coordinator's Office, but for the Office of 7 Community Standards it's the same as I just 8 mentioned, that we do not see all reports 9 related to Title IX. So Clery is bigger than 10 students. 11 Q. Correct. But as to students, 12 anything that's reported under Clery should 13 either by part of the inventory of reports in 14 the Community Standards Office or the Title IX 15 Coordinator's Office? 16 A. I believe so. 17 MR. MIRABELLA: Let's take a 18 short break. 19 - - - 20 (Whereupon, a short break was taken at 21 this time.) 22 - - - 23 BY MR. MIRABELLA: 24 Q. Are you involved in the, if</p>

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<p style="text-align: right;">Page 134</p> <p>1 there is one, search for a new Title IX 2 Coordinator? 3 A. Not that I'm aware of, no. 4 Q. Have you had any other 5 interactions with Elizabeth Malloy other than 6 what you already described? 7 A. No. 8 Q. How often are the grant 9 payments made? 10 A. What do you mean? 11 Q. Sure. It's a \$300,000 grant; 12 correct? 13 A. Yes. 14 Q. And I believe it's for three 15 years? 16 A. Yes. 17 Q. Does that SJU receive money 18 annually, biannually or something else? 19 A. I do not know. We work with 20 our Office of Research Services and they 21 manage, I believe, most of the physical end of 22 the budget. 23 Q. As I asked you earlier, you 24 don't prepare the progress reports for the</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. And what was the IT solution 2 proposed? 3 A. It was an additional module 4 added to StarRez. 5 Q. And the module would enable the 6 school to provide -- input additional 7 information or track additional information or 8 something else? 9 A. I can't say exactly what it 10 would do different than what is being done now 11 because I don't manage those records 12 currently. 13 Q. And do you know what the school 14 is required to do to show whether it's making 15 progress on either grant or with the grant 16 fund? 17 A. I don't know specifically. 18 Q. And would that be Ms. Berney? 19 A. Yes. 20 Q. You're not a Deputy Title IX 21 Coordinator, are you? 22 A. I am not. 23 Q. Are there any penalties if the 24 school fails -- are you aware of any</p>
<p style="text-align: right;">Page 135</p> <p>1 grant, that's done by Ms. Berney? 2 A. Yes. 3 Q. Have you reviewed progress 4 reports that she submitted? 5 A. I was asked to secure it 6 yesterday. That's the first time I saw it. 7 Q. Since receiving the grant, are 8 you aware of any changes at SJU in terms of 9 the Sexual Misconduct Policy in terms of its 10 education, orientation programs or anything 11 done that's been a departure from what the 12 practice has been in the past? 13 A. No. 14 Q. What was the purpose of the 15 \$30,000 State grant? 16 A. I was not the lead author on 17 that, although I did work with Dr. Perry on 18 it. We, again, looked to secure funding to 19 support our efforts around education, 20 prevention, education and an IT solution. 21 Q. And does that pertain to claims 22 of sexual misconduct or campus safety or 23 something else? 24 A. Sexual misconduct, yes.</p>	<p style="text-align: right;">Page 137</p> <p>1 penalties, not just at SJU, anywhere, if an 2 institution does not report under Clery? 3 A. Of any institution, yes. The 4 Department of Ed enforces the Clery Act. 5 Q. And do you know what its 6 enforcement tools are? 7 A. I do not know specifically. 8 Q. Who, if anyone, was involved in 9 familiarizing Ms. Malloy about the school's 10 Sexual Misconduct Policy? 11 A. I don't know if I have that 12 information. 13 Q. Did you do it? 14 A. I can't recall if there were 15 any conversations that I was a part of for 16 that. 17 Q. Your recollection when she 18 spoke about the investigation, was it about 19 the investigator model, at a committee 20 meeting? 21 MR. PICCERILLI: Objection to 22 form. 23 THE WITNESS: The committee 24 meeting pertaining to the policy?</p>

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<p style="text-align: right;">Page 138</p> <p>1 BY MIRABELLA: 2 Q. Yes. 3 A. I'm sorry, can you repeat? 4 What's your question again? 5 Q. Sure. What did Ms. Malloy 6 speak about? 7 A. I can't recall specifically 8 what it was about. 9 Q. Did Ms. Malloy provide any 10 handouts or literature? 11 A. I don't recall. 12 Q. I asked some questions earlier 13 about the Q&A and the Dear Colleague Letters. 14 You're familiar with those as I believe you 15 referred to them as subregulatory; is that 16 correct? 17 A. Yes. 18 Q. Okay. Did you have -- 19 MR. PICCERILLI: I think her 20 testimony was subregulatory guidance. 21 THE WITNESS: Yes. 22 MR. MIRABELLA: Okay. I'm sure 23 that's correct. 24 Can we mark the Dear Colleague</p>	<p style="text-align: right;">Page 140</p> <p>1 Colleague. Do you know that Dear Colleague is 2 meant to refer to educators? 3 A. No, I do not know that. 4 Q. Did you receive a copy of the 5 letter? 6 A. I don't know how I received it, 7 but I recall reading it. 8 Q. Somehow it got to your desk? 9 A. Yes. 10 Q. So you may have been one of the 11 colleagues or it may have sent to somebody 12 else, but it was a letter published by the 13 Department of Education; correct? 14 A. Yes. 15 Q. And it's the Office for Civil 16 Rights; correct? 17 A. Yes. 18 Q. And it starts with talking 19 about prior letters and guidance that were 20 being withdrawn. Do you see that? 21 A. Yes. 22 Q. So I'm going to ask you some 23 questions. If you need to read the particular 24 passage just let me know.</p>
<p style="text-align: right;">Page 139</p> <p>1 Letter and the Q&A of September 2017 2 collectively as 4. 3 --- 4 (Whereupon, Exhibit White-4 was marked 5 for identification.) 6 --- 7 BY MR. MIRABELLA: 8 Q. Have you had a chance to take a 9 quick look at them? 10 A. Quick look. 11 Q. Have you seen them before? 12 A. Yes. 13 Q. For somebody not involved in 14 higher education, can you describe what is a 15 Dear Colleague Letter from the Department of 16 Education, Office for Civil Rights? 17 A. I don't know if I can describe 18 that exactly. I don't know that I know the 19 best way to define that. It's a governmental 20 document. 21 Q. Sure. It's a letter from the 22 Department of Education; correct? 23 A. Yes. 24 Q. And it's addressed Dear</p>	<p style="text-align: right;">Page 141</p> <p>1 A. Okay. 2 Q. At the beginning of the letter 3 it talks about Dear Colleague Letters 4 previously issued in 2011 and the Q&A issued 5 in 2014. 6 Am I am correct early on you 7 testified that some of those things, these 8 documents, or those referred to, were 9 something the school looked at and considered 10 as part of the process of changing its policy 11 for the investigation and adjudication of 12 sexual misconduct? 13 A. In 2015? Published in 2015, 14 yes. 15 Q. And this letter of September 16 22, 2017 was sent out from the Department of 17 Education specifically advising schools that 18 those particular pieces of guidance were being 19 withdrawn; correct? 20 A. That's what it states, yes. 21 Q. Did you understand it to mean 22 anything different than that? 23 A. I read it for what it is at 24 face value. I'm reading what you're reading</p>

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<p style="text-align: right;">Page 142</p> <p>1 in terms of what it says the purpose is, yes. 2 Q. And the letter goes on to 3 describe, at least in part, the thinking or 4 reasoning behind why those two pieces of 5 guidance were withdrawn; correct? 6 MR. PICCERILLI: You can take a 7 moment. 8 THE WITNESS: I may want to 9 read that. (Witness reviews document.) 10 Repeat the question, please. 11 BY MR. MIRABELLA: 12 Q. Does the letter address the 13 reason for withdrawing the guidance? 14 A. I read that it's stating what 15 the 2011 Dear Colleague Letter did -- 16 Q. So if you want I can ask it 17 another way. Do you want me to rephrase the 18 question? 19 A. Please. 20 Q. All right. At the bottom of 21 the letter the Department of Education states 22 that: The 2011 and 2014 guidance documents 23 may have been well-intentioned, but those 24 documents have led to the deprivation of</p>	<p style="text-align: right;">Page 144</p> <p>1 practice to provide to the Respondent the 2 evidence, the statements in the investigation 3 of an alleged misconduct against him prior to 4 her interviewing or him interviewing the 5 Respondent? 6 A. It's my understanding that the 7 information is thorough in what is provided to 8 the parties involved during that 9 investigation. That's the expectation of my 10 understanding that that is happening during 11 the investigation. 12 Q. What do you define as thorough? 13 A. The investigator is the one who 14 has that information and is evaluating, 15 synthesizing, collecting that information. 16 Q. And what's your understanding 17 in this case of what information was provided 18 to the Respondent prior to meeting with the 19 investigator? 20 A. Prior to meeting with the 21 investigator was the Letter. 22 Q. The Notice of Process Letter? 23 A. The Notice Letter as well as a 24 pre-investigation meeting.</p>
<p style="text-align: right;">Page 143</p> <p>1 rights for many students, both accused 2 students denied fair process and victims 3 denied an adequate resolution. 4 Do you see where I read that? 5 A. Yes. 6 Q. Do you agree with that? 7 A. My lens is coming out from 8 Saint Joseph's University's policy and process 9 that we instituted, and I do believe that 10 process is fair. 11 Q. And the process that you 12 instituted that we talked about earlier are 13 which the Respondent is not provided access or 14 an opportunity to review the evidence or 15 records in an investigation against him until 16 after there's been a finding; am I correct? 17 MR. PICCERILLI: Objection to 18 form. 19 THE WITNESS: So this is an 20 ongoing collection and iterative process of 21 the investigation. 22 BY MR. MIRABELLA: 23 Q. Well, to your knowledge, is the 24 outside investigator required by policy or</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. Correct. Those are the two 2 documents provided in writing to the 3 Respondent prior to meeting the investigator; 4 correct? 5 A. Yes. 6 Q. And the Notice of Process 7 Letter has the date, time and the identity of 8 the Complainant; correct? 9 A. I would have to see that. 10 Q. Can you accept my 11 representation that that information is in the 12 Notice of Process Letter? 13 A. I believe that it is. 14 Q. And it also indicates that 15 there's an alleged violation of the Sexual 16 Misconduct Policy and it lists all six 17 categories? 18 A. Again, I would need to see the 19 letter to be able to answer that. 20 Q. So those two letters, the 21 Notice of Process and Pre-investigation 22 Checklist, have been produced, identified. 23 Are there any other documents 24 or any other information provided in writing</p>

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<p style="text-align: right;">Page 146</p> <p>1 to the Respondent prior to meeting with the 2 investigator? 3 A. Are you talking about in 4 general or in this particular case? 5 Q. That the school expects as part 6 of its disciplinary program for a fair and 7 equitable investigation? 8 A. Typically there is some sort of 9 communication in terms of resources and 10 support made available to the students 11 involved in the process as well. 12 Q. Anything else about the actual 13 allegations against the Respondent? 14 A. Not to my knowledge, no. 15 Q. And is it your expectation that 16 at the time of the meeting with the 17 investigator the Respondent is shown either 18 the Incident Report or the written complaint 19 as asserted against them? 20 A. No. It's my expectation that 21 the investigator is proceeding in a thorough 22 way throughout that investigation. 23 Q. Thorough for who, the school or 24 the Respondent?</p>	<p style="text-align: right;">Page 148</p> <p>1 Letter. It's also the investigation itself. 2 Q. So I want to isolate that. I 3 want to talk about what information is 4 provided either directly to the Respondent or 5 that the Respondent is provided access to 6 prior to the first meeting with the 7 investigator. 8 A. Right. 9 MR. PICCERILLI: Objection; 10 asked and answered. 11 BY MR. MIRABELLA: 12 Q. So is there any other written 13 information that's provided other than the 14 Checklist and the Notice Letter? 15 A. As I said, there may be some 16 communication. It could be in the form of 17 various support and resources as well. 18 Q. But nothing further in writing 19 about the allegations against the Respondent? 20 A. Correct. 21 Q. Not a copy of the Incident 22 Report; correct? 23 A. Correct. 24 Q. Not a copy of the</p>
<p style="text-align: right;">Page 147</p> <p>1 A. Thorough in terms of the 2 process and the expectation set forth. 3 Q. Does thorough include 4 disclosing the actual allegation against the 5 Respondent prior to the interview by your 6 definition? 7 A. That is the information that is 8 included in the Notice Letter. 9 Q. And that, in your opinion, is 10 adequate for an equitable investigation; 11 correct? 12 A. I did not say that. 13 Q. Well, is it or is it not? 14 A. Can you repeat the question? 15 Q. Sure. In your opinion, is the 16 information provided to the Respondent in the 17 Notice Letter adequate for an equitable 18 investigation if that's all that's provided to 19 him or her prior to meeting with the 20 investigator? 21 A. There's more to the 22 investigation than just that Notice Letter. 23 So in terms of what's an equitable 24 investigation is it's more than the Notice</p>	<p style="text-align: right;">Page 149</p> <p>1 investigator's report; correct? 2 MR. PICCERILLI: Objection. Go 3 ahead, you can answer. 4 THE WITNESS: Some of that 5 didn't exist yet. 6 BY MR. MIRABELLA: 7 Q. Not a copy of the report taken 8 by the Title IX Coordinator, first report; 9 correct? 10 A. Correct. 11 Q. And the identification of the 12 violations refers to the entire section of the 13 Sexual Misconduct Policy, not the specific 14 provisions in question; correct? 15 A. I'd like to see the letter to 16 be able to answer. 17 Q. All right. Dr. White, it might 18 be easier I think for some of these questions, 19 I'm going to give you SJU 331, the last page 20 is 730. The reason I'm doing it in this 21 fashion is the top of it has an Index prepared 22 I believe by Mr. Bordak of the Incident 23 documents. I think it will allow you to get 24 in and out of some of these.</p>

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<p style="text-align: right;">Page 150</p> <p>1 A. Thank you.</p> <p>2 MR. PICCERILLI: So those</p> <p>3 numbers were 331 to 730, John?</p> <p>4 MR. MIRABELLA: Correct. The</p> <p>5 entire rubberbanded set of records is 331 to</p> <p>6 741. I don't think we're going to get</p> <p>7 much -- well, we'll see. But in any event,</p> <p>8 the cover sheet is the documents, Re:</p> <p>9 Incident Occurrence February 23rd.</p> <p>10 BY MR. MIRABELLA:</p> <p>11 Q. We're talking about the</p> <p>12 information -- about the allegations of</p> <p>13 misconduct that's provided in the Notice of</p> <p>14 Process Letter to the Respondent, what is or</p> <p>15 isn't included in that letter.</p> <p>16 Dr. White, I believe there's a</p> <p>17 hand numbering system at the bottom as well</p> <p>18 that follows the Cover Sheet.</p> <p>19 A. Yes, thank you.</p> <p>20 Q. Okay, I have it.</p> <p>21 Q. So take a moment to review</p> <p>22 that, but also state on the record what page</p> <p>23 you're looking at.</p> <p>24 A. 000439.</p>	<p style="text-align: right;">Page 152</p> <p>1 Sexual Misconduct Policy it identifies the</p> <p>2 entire policy; correct?</p> <p>3 A. Correct.</p> <p>4 Q. It doesn't say it's retaliation</p> <p>5 or discrimination or harassment, it just says</p> <p>6 the whole policy?</p> <p>7 A. Correct.</p> <p>8 Q. All right. The other piece of</p> <p>9 information that's provided to the Respondent</p> <p>10 is the Checklist that's given to the</p> <p>11 Respondent either prior to or at the</p> <p>12 pre-investigation meeting; correct?</p> <p>13 A. Yes, that's correct.</p> <p>14 Q. And you're welcome to review</p> <p>15 it, but would you agree with me that there's</p> <p>16 no additional information set forth on the</p> <p>17 Checklist as to the specific provisions of the</p> <p>18 Sexual Misconduct Policy that may or may not</p> <p>19 have been violated and as to the factual</p> <p>20 allegations of the complaint?</p> <p>21 A. Correct.</p> <p>22 Q. And is it the policy of Saint</p> <p>23 Joseph's University that that is adequate</p> <p>24 information about the complaint to be provided</p>
<p style="text-align: right;">Page 151</p> <p>1 MR. PICCERILLI: SJU.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. MIRABELLA:</p> <p>4 Q. All right. Do you have in</p> <p>5 front of you what I've been referring to as</p> <p>6 the Notice of Process Letter?</p> <p>7 A. Yes.</p> <p>8 Q. I was asking you some questions</p> <p>9 about what information is set forth in the</p> <p>10 letter; correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. As to the allegations</p> <p>13 against the Respondent, am I correct that the</p> <p>14 only factual information is the name of the</p> <p>15 Complainant, the date of the event and the</p> <p>16 location of the event?</p> <p>17 A. Yes, that information is</p> <p>18 contained within the letter. Yes.</p> <p>19 Q. And there are no further</p> <p>20 details as to the specific facts or</p> <p>21 allegations against the Respondent other than</p> <p>22 it implicates the Sexual Misconduct Policy?</p> <p>23 A. Correct.</p> <p>24 Q. And as to the provisions of the</p>	<p style="text-align: right;">Page 153</p> <p>1 to the Respondent prior to meeting with the</p> <p>2 investigator?</p> <p>3 A. Yes, because at that time we</p> <p>4 may not have all the information which is the</p> <p>5 investigation is for.</p> <p>6 Q. Is the policy of Saint Joe's</p> <p>7 University that the investigator will show to</p> <p>8 the Respondent the actual allegations that</p> <p>9 were provided in writing as part of the</p> <p>10 investigation file when she meets with the</p> <p>11 Respondent?</p> <p>12 A. I'm not aware of the mode of</p> <p>13 sharing information, but the expectation is</p> <p>14 that it is thorough in terms of information</p> <p>15 that is shared.</p> <p>16 Q. Okay. And to be thorough, that</p> <p>17 would be adequate information to inform the</p> <p>18 Respondent as to the actual -- as to the</p> <p>19 allegations of misconduct asserted against</p> <p>20 them?</p> <p>21 MR. PICCERILLI: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: Can you repeat</p> <p>24 that?</p>

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<p style="text-align: right;">Page 154</p> <p>1 BY MR. MIRABELLA:</p> <p>2 Q. What do you mean by thorough in</p> <p>3 terms of what's shared with the Respondent?</p> <p>4 A. I shared already, collection of</p> <p>5 information, synthesizing that information,</p> <p>6 evaluating that information in terms of -- now</p> <p>7 you're asking for my definition of thorough.</p> <p>8 Q. Only as it pertains to what the</p> <p>9 school expects the investigator to disclose to</p> <p>10 the Respondent prior to conducting the</p> <p>11 interview.</p> <p>12 A. Again, the interview and</p> <p>13 investigation is an ongoing process where that</p> <p>14 information is still being collected.</p> <p>15 Q. I understand that, but there is</p> <p>16 an Incident Report by the time of the meeting</p> <p>17 with the investigator; correct?</p> <p>18 A. There's usually some report. I</p> <p>19 don't know exactly if it's called an Incident</p> <p>20 Report, depending on what the source of the</p> <p>21 information is.</p> <p>22 Q. At minimum there's an initial</p> <p>23 complaint; correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 156</p> <p>1 together? Let me just find it.</p> <p>2 I direct your attention to the</p> <p>3 Appeal Packet.</p> <p>4 MR. PICCERILLI: Do you have a</p> <p>5 page number for us, John?</p> <p>6 MR. MIRABELLA: Yes, I think</p> <p>7 it's 589.</p> <p>8 THE WITNESS: Okay, thank you.</p> <p>9 BY MR. MIRABELLA:</p> <p>10 Q. This is the appeal submitted by</p> <p>11 Elizabeth Malloy; correct?</p> <p>12 A. Yes.</p> <p>13 Q. And what we're trying to drill</p> <p>14 down to the bottom of is what constitutes a</p> <p>15 thorough sharing of information with the</p> <p>16 Respondent. And I asked to direct your</p> <p>17 attention to this letter.</p> <p>18 Does Ms. Malloy address in this</p> <p>19 letter the extent of the information she</p> <p>20 shared with the Respondent?</p> <p>21 A. The second paragraph mentions</p> <p>22 what Ms. Malloy informed the Complainant and</p> <p>23 Respondent of.</p> <p>24 Q. Can you read that into the</p>
<p style="text-align: right;">Page 155</p> <p>1 Q. In that event, those documents</p> <p>2 are not shared, they're not expected by the</p> <p>3 school to be shared with the Respondent prior</p> <p>4 to meeting with the investigator?</p> <p>5 A. Correct, to preserve the</p> <p>6 integrity of that investigation.</p> <p>7 Q. And in this instance, what</p> <p>8 information would you have expected the</p> <p>9 investigator to share about the allegations at</p> <p>10 any point in the process before finding</p> <p>11 responsibility?</p> <p>12 A. I don't know that I can speak</p> <p>13 to the specifics of that for this instance.</p> <p>14 Q. Well, what you would have</p> <p>15 expected or what the investigator actually</p> <p>16 shared? Strike that.</p> <p>17 I'm trying to get a better</p> <p>18 understanding of your answer that you would</p> <p>19 expect the investigator to be thorough in</p> <p>20 sharing information about the allegations with</p> <p>21 the Respondent, is what that means, right?</p> <p>22 A. Right.</p> <p>23 Q. All right. Is the appeal part</p> <p>24 of that document set that Mr. Bordak put</p>	<p style="text-align: right;">Page 157</p> <p>1 record.</p> <p>2 A. Sure: I clearly informed Mr.</p> <p>3 Redacted and Ms. Redacted, allegation was that</p> <p>4 he squeezed her neck and that she did not</p> <p>5 consent to that, although she consented to the</p> <p>6 kissing.</p> <p>7 Q. And my question to you is: Is</p> <p>8 that a thorough sharing of the information</p> <p>9 with the Respondent based on your definition</p> <p>10 of thorough?</p> <p>11 A. I would not assume that this</p> <p>12 was the only information that Ms. Malloy</p> <p>13 shared is one sentence.</p> <p>14 Q. What would you assume?</p> <p>15 MR. PICCERILLI: Objection.</p> <p>16 You're asking for a guess.</p> <p>17 MR. MIRABELLA: She can still</p> <p>18 answer.</p> <p>19 MR. PICCERILLI: No, she can't</p> <p>20 answer. You're asking for a guess.</p> <p>21 MR. MIRABELLA: It's not a</p> <p>22 guess, actually. She's very familiar with the</p> <p>23 process. She reads these documents all the</p> <p>24 time.</p>

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<p style="text-align: right;">Page 158</p> <p>1 BY MR. MIRABELLA:</p> <p>2 Q. Would it be your assumption</p> <p>3 that more information than that was shared</p> <p>4 with the Respondent?</p> <p>5 MR. MIRABELLA: Objection to</p> <p>6 form. You can still answer.</p> <p>7 THE WITNESS: That's the</p> <p>8 investigator process. I'm not familiar with</p> <p>9 what Liz did with the students throughout the</p> <p>10 investigation.</p> <p>11 BY MR. MIRABELLA:</p> <p>12 Q. My question to you is: If</p> <p>13 that's the only information supplied, would</p> <p>14 that be adequate to be a thorough</p> <p>15 investigation?</p> <p>16 A. I don't know the circumstances,</p> <p>17 all the circumstances of the incident to</p> <p>18 determine -- to be the one to determine if</p> <p>19 that was thorough or not.</p> <p>20 Q. When you handled the appeal,</p> <p>21 did you read through the appeal replies?</p> <p>22 A. What do you mean by appeal</p> <p>23 replies?</p> <p>24 Q. The documents collected in</p>	<p style="text-align: right;">Page 160</p> <p>1 Respondent not understanding the allegations</p> <p>2 against him?</p> <p>3 A. I did not say that.</p> <p>4 Q. But is that a possibility?</p> <p>5 MR. PICCERILLI: Objection.</p> <p>6 BY MR. MIRABELLA:</p> <p>7 Q. Either this case -- what's the</p> <p>8 benefit? Why is the integrity of the</p> <p>9 investigation so important?</p> <p>10 A. We realize that we may not</p> <p>11 institutionally have all the information on</p> <p>12 the onset of the complaint.</p> <p>13 Q. Isn't the integrity of the</p> <p>14 investigation supposed to be to ensure or help</p> <p>15 improve the chances that the investigation</p> <p>16 will result in accurate findings and outcomes?</p> <p>17 A. And fair process I would add.</p> <p>18 Q. So in this case, do you believe</p> <p>19 the process that was afforded was fair and</p> <p>20 equitable?</p> <p>21 A. I do.</p> <p>22 Q. So Roe made the complaint to</p> <p>23 the Title IX Officer, so she knew what the</p> <p>24 allegations were in her Complaint; correct?</p>
<p style="text-align: right;">Page 159</p> <p>1 response to the appeal filed by the</p> <p>2 Respondent?</p> <p>3 A. Yes.</p> <p>4 Q. So at some point in time you</p> <p>5 read through all these?</p> <p>6 A. All of these what?</p> <p>7 Q. All of these replies to the</p> <p>8 appeal filed by the Respondent?</p> <p>9 A. Yes.</p> <p>10 Q. So your answer today is you</p> <p>11 still don't know if that's a thorough sharing</p> <p>12 of the information to Respondent?</p> <p>13 MR. PICCERILLI: Objection.</p> <p>14 She didn't testify about that.</p> <p>15 THE WITNESS: I was not</p> <p>16 involved -- I do not have particulars of the</p> <p>17 incident in terms of what was happening</p> <p>18 throughout the investigation or what was being</p> <p>19 shared throughout the investigation.</p> <p>20 Additionally, the preservation</p> <p>21 of the integrity of that investigation is</p> <p>22 something that is also important.</p> <p>23 BY MR. MIRABELLA:</p> <p>24 Q. At the expense of the</p>	<p style="text-align: right;">Page 161</p> <p>1 A. I'm sorry, can you repeat that?</p> <p>2 Q. Row gave a statement to the</p> <p>3 Title IX Officer, so Roe knew what the</p> <p>4 allegations were that she stated to the Title</p> <p>5 IX Officer; correct?</p> <p>6 A. I don't know what she stated to</p> <p>7 the Title IX Officer.</p> <p>8 Q. Can you agree with me that if</p> <p>9 she gave a statement to the Title IX Officer</p> <p>10 she knows what she said in the statement?</p> <p>11 A. Who is she?</p> <p>12 Q. Roe. If Roe gives a complaint</p> <p>13 to the Title IX Officer about an incident, she</p> <p>14 at least knows what she told the Title IX</p> <p>15 Officer about the incident; correct?</p> <p>16 A. I would have to assume that.</p> <p>17 Q. And Doe is never shared that</p> <p>18 information prior to the outcome?</p> <p>19 MR. PICCERILLI: Objection.</p> <p>20 BY MR. MIRABELLA:</p> <p>21 Q. In this case and generally;</p> <p>22 correct?</p> <p>23 MR. PICCERILLI: Objection.</p> <p>24 That was not her testimony.</p>

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<p style="text-align: right;">Page 162</p> <p>1 BY MR. MIRABELLA: 2 Q. I'll tell you that in this case 3 Doe was not shared access to or shown that 4 statement. So Roe knew what she said, Doe did 5 not know what she said. Can you agree with me 6 about that aspect of it? 7 MR. PICCERILLI: Objection. 8 You're asking her to accept your assumption or 9 your representation, which she does not have 10 to at this deposition. 11 MR. MIRABELLA: Actually, she 12 can answer the question, agree or disagree. 13 Strike the question and answer. 14 BY MR. MIRABELLA: 15 Q. I'm trying to go through what's 16 an equitable investigation. And we're 17 starting with the initial complaint which is 18 provided by the Complainant and not given to 19 the Respondent. Would you agree with that? 20 MR. PICCERILLI: What's the 21 question? 22 BY MR. PICCERILLI: 23 Q. Can we agree that the initial 24 complaint as a general -- as the practice, as</p>	<p style="text-align: right;">Page 164</p> <p>1 photographs to the investigator, are those 2 shown to the Respondent prior to the meeting? 3 A. Again, I answered what is shown 4 to the Respondent prior to the investigation. 5 Q. So the statement of the 6 Complainant and any evidence provided by the 7 Complainant is not provided to the Respondent 8 prior to meeting with the investigator; 9 correct? 10 MR. PICCERILLI: Objection; 11 asked and answered. 12 BY MR. MIRABELLA: 13 Q. Am I correct? 14 MR. PICCERILLI: You can 15 answer. 16 THE WITNESS: Yes, the same as 17 what I said. Yes. 18 BY MR. MIRABELLA: 19 Q. And it's your position that 20 constitutes -- as part of that process 21 constitutes an equitable investigation? 22 A. As I mentioned before, 23 equitable in terms of the entire -- 24 equitability to me is considered within the</p>
<p style="text-align: right;">Page 163</p> <p>1 a general matter is provided by the Respondent 2 is not disclosed to the Complainant prior to 3 the meeting with the investigator? 4 A. I think you have that backward, 5 the Respondent and the Complainant. 6 Q. I'm sorry. The Complainant 7 gives the initial complaint, she is then known 8 to the complaint, but it's not shared with the 9 Respondent prior to the meeting with the 10 investigator. Can you agree with that? 11 A. The information that is shared 12 with the Respondent would have been enclosed 13 within the Notice Letter as well as the 14 Pre-investigation Checklist prior to meeting 15 with the investigator. That is the 16 information that was shared. 17 Q. The only information. So that 18 he doesn't have access to the complaint; 19 correct? 20 MR. PICCERILLI: Objection to 21 the form of the question. Objection; asked 22 and answered a thousand times at this point. 23 BY MR. MIRABELLA: 24 Q. If the Complainant provides</p>	<p style="text-align: right;">Page 165</p> <p>1 entire process. 2 Q. All right. So let's turn to 3 the Q&A, September of 2017, specifically What 4 constitutes an "equitable" investigation? 5 It's in the Q&A and it's part of Exhibit 4. 6 I direct your attention to Page 7 3, Question 6. Do you see the question? 8 A. I do, yes. 9 Q. So it's framed -- this is a 10 Q&A. It's framed as part of the guidance 11 issued by the Department of Education: Quote, 12 What constitutes an "equitable" 13 investigation? And then the answer starts on 14 Page 4. This is the Page 4 to Question number 15 6. Are you with me so far? 16 A. Yes, I am. 17 Q. Okay. Paragraph 4, and your 18 attorney is free to ask you questions about 19 any other part of this, but I'm trying to save 20 time and talk about the issues in this case. 21 In the beginning, the first 22 sentence in Paragraph 4, it talks about what a 23 school should provide to a responding party. 24 Do you see that, the first</p>

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<p style="text-align: right;">Page 166</p> <p>1 sentence?</p> <p>2 MR. PICCERILLI: The first</p> <p>3 sentence of which paragraph? I'm sorry.</p> <p>4 MR. MIRABELLA: Paragraph 4,</p> <p>5 Page 4, Answer to Question.</p> <p>6 THE WITNESS: Paragraph 4, Page</p> <p>7 4, okay.</p> <p>8 BY MR. MIRABELLA:</p> <p>9 Q. It says: Once it decides to</p> <p>10 open an investigation that may lead to</p> <p>11 disciplinary action against the responding</p> <p>12 party, a school should provide written notice</p> <p>13 to the responding party of the allegations</p> <p>14 constituting a potential violation of the</p> <p>15 school's Sexual Misconduct Policy, including</p> <p>16 sufficient details and with sufficient time to</p> <p>17 prepare a response before any initial</p> <p>18 interview. Sufficient details include the</p> <p>19 identities of parties involved, the specific</p> <p>20 section of the code of conduct allegedly</p> <p>21 violated, the precise conduct allegedly</p> <p>22 constituting the potential violation, and the</p> <p>23 date and location of the incident.</p> <p>24 My question to you is: In this</p>	<p style="text-align: right;">Page 168</p> <p>1 that.</p> <p>2 Q. But it's called a policy, not a</p> <p>3 code?</p> <p>4 A. Correct.</p> <p>5 MR. PICCERILLI: Objection;</p> <p>6 you're argumentative.</p> <p>7 BY MR. MIRABELLA:</p> <p>8 Q. So the policy covers six</p> <p>9 different types of sexual misconduct, doesn't</p> <p>10 it?</p> <p>11 A. I would have to look at it</p> <p>12 offhand to know the specific number.</p> <p>13 Q. It's 53 pages roughly in</p> <p>14 length.</p> <p>15 MR. MIRABELLA: For the record,</p> <p>16 that's 1175 through 1226.</p> <p>17 MR. PICCERILLI: SJU as the</p> <p>18 prefix.</p> <p>19 BY MR. MIRABELLA:</p> <p>20 Q. So is that the Sexual</p> <p>21 Misconduct Policy?</p> <p>22 A. Yes.</p> <p>23 Q. And that's what's provided in</p> <p>24 the Notice of Process Letter to the</p>
<p style="text-align: right;">Page 167</p> <p>1 case was Doe provided the details, sufficient</p> <p>2 details of the specific section of the code,</p> <p>3 the precise conduct allegedly constituting the</p> <p>4 potential violation?</p> <p>5 A. The specific section of the</p> <p>6 code, yes, we have an entire Community</p> <p>7 Standards code of conduct. So the specific</p> <p>8 section of the code.</p> <p>9 Q. My question was --</p> <p>10 MR. PICCERILLI: She's not</p> <p>11 finished her answer.</p> <p>12 MR. MIRABELLA: Oh, sure.</p> <p>13 MR. PICCERILLI: Go ahead,</p> <p>14 finish your answer.</p> <p>15 THE WITNESS: The identities of</p> <p>16 the parties involved, yes. The date and</p> <p>17 location of the alleged incident, yes as well.</p> <p>18 BY MR. MIRABELLA:</p> <p>19 Q. You said the specific section</p> <p>20 of the code. The code is referred to as a</p> <p>21 Sexual Misconduct Policy, isn't it?</p> <p>22 A. Correct, but we have a much</p> <p>23 larger student code of conduct in which the</p> <p>24 Sexual Misconduct Policy is embedded within</p>	<p style="text-align: right;">Page 169</p> <p>1 Respondent?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. Does that include the six</p> <p>4 different categories of sexual misconduct?</p> <p>5 A. Yes.</p> <p>6 Q. All right. But the Respondent</p> <p>7 is not told which category is at issue or</p> <p>8 categories, simply told the policy at issue?</p> <p>9 A. When are you talking about?</p> <p>10 Q. In the Notice of Process</p> <p>11 Letter.</p> <p>12 A. Correct.</p> <p>13 Q. And is it your opinion that</p> <p>14 that is sufficient, that is the specific</p> <p>15 section of the code of conduct allegedly</p> <p>16 violated such as to comply with the guidance</p> <p>17 issued by the Office for Civil Rights of the</p> <p>18 Department of Education in 2017?</p> <p>19 MR. PICCERILLI: Objection to</p> <p>20 form. You can answer.</p> <p>21 THE WITNESS: It's much more</p> <p>22 precise than just general violation of the</p> <p>23 Community Standards of the University.</p> <p>24 BY MR. MIRABELLA:</p>

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<p style="text-align: right;">Page 170</p> <p>1 Q. Well, I mean, it's much more 2 precise than saying it's a general violation 3 than saying it's a violation of sexual 4 misconduct; correct? 5 A. Correct. 6 Q. It doesn't say what kind of 7 sexual misconduct? 8 A. Correct. 9 Q. The section of the code or the 10 policy, however you want to describe it, is 11 over 54 pages in length; correct? 12 A. Yes. 13 Q. And the specific factual 14 allegations of the alleged conduct which 15 constitutes the violation are not set forth in 16 the Notice Letter. So how is the student to 17 determine what section applies to him in the 18 Sexual Misconduct Policy as a Respondent? 19 MR. PICCERILLI: Can I hear the 20 question back. 21 --- 22 (Whereupon, the court reporter back the 23 pertinent information.) 24 ---</p>	<p style="text-align: right;">Page 172</p> <p>1 the student responding process, no. 2 Q. Going on in the same paragraph 3 in the Q&A: Each party should receive written 4 notice in advance of any interview or hearing 5 with sufficient time to prepare for meaningful 6 participation. 7 We've already identified what 8 is written in the Notice. Did that happen in 9 this case? 10 MR. PICCERILLI: Objection to 11 form. 12 BY MR. MIRABELLA: 13 Q. You can answer. 14 A. I'm just reading above where it 15 references written notice. 16 Q. Sure. 17 A. Again, I believe I just 18 answered this. The written notice is our 19 Notice Letter that we refer to. 20 Q. And you believe that that's 21 adequate information for the Respondent for an 22 equitable investigation; correct? 23 A. I did not say that. Again, I 24 think there's more to equitable than just this</p>
<p style="text-align: right;">Page 171</p> <p>1 THE WITNESS: Again, this is a 2 part of the investigation and the conversation 3 that happens within the investigation. 4 BY MR. MIRABELLA: 5 Q. I don't understand that answer. 6 A. That information, more 7 specificity is provided throughout the 8 investigation. 9 Q. By who? 10 A. The investigator. 11 Q. Is it supposed to be provided 12 by anyone else or is it just the investigator? 13 A. Again, we wouldn't share that 14 information up front to preserve the integrity 15 of the investigation. 16 Q. We being SJU. So SJU relies on 17 the investigator to disclose the information 18 as to the specific allegations? 19 A. So let me clarify, we being the 20 Office of Community Standards. 21 Q. So he or she does not share the 22 information with the Respondent before he or 23 she meets with an investigator? 24 A. For the student process, for</p>	<p style="text-align: right;">Page 173</p> <p>1 notice piece. It's the entire process, and 2 the investigation is another opportunity 3 because it is an ongoing process, that some of 4 that information may be shared during the 5 investigation. 6 Q. Now, that sentence goes on to 7 state: The written notice should be shared in 8 advance of any interview or hearing with 9 sufficient time to prepare for meaningful 10 participation. 11 In this case nothing was shared 12 about specific factual allegations prior to 13 meeting with the investigator; correct? 14 MR. PICCERILLI: Objection. 15 That's not her testimony. 16 BY MR. MIRABELLA: 17 Q. What's your understanding of 18 what that means? Is it your position that SJU 19 complies with it? 20 A. Yes, I shared that the written 21 notice does provide information. Our Notice 22 Letter provides information regarding the 23 violation of the policy, the specific 24 violation of student code of conduct, date and</p>

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<p style="text-align: right;">Page 174</p> <p>1 location and name of the Complainant.</p> <p>2 Q. Okay. The last sentence of the</p> <p>3 paragraph talks about, quote: The reporting</p> <p>4 and responding parties and appropriate</p> <p>5 officials must have timely and equal access to</p> <p>6 any information and equal access to any</p> <p>7 information that will be used during informal</p> <p>8 and formal disciplinary meetings and hearings.</p> <p>9 In this case do you believe</p> <p>10 that the Respondent and the complaining party</p> <p>11 had timely and equal access to the information</p> <p>12 that was used in formal and informal</p> <p>13 disciplinary meetings and hearings?</p> <p>14 A. I can speak to what I was</p> <p>15 directly involved with with the appeal</p> <p>16 process, and yes, I can confirm that that is</p> <p>17 true.</p> <p>18 Q. I didn't understand as part of</p> <p>19 the appeal is concerned.</p> <p>20 A. That's where I had direct</p> <p>21 involvement with the process, so in terms of</p> <p>22 having timely and equal access to information.</p> <p>23 Q. And we've been through, and we</p> <p>24 can go back through it, the Complainant knows</p>	<p style="text-align: right;">Page 176</p> <p>1 responsibility for sexual misconduct?</p> <p>2 Do you see the question?</p> <p>3 A. Yes.</p> <p>4 Q. The second paragraph --</p> <p>5 MR. PICCERILLI: The second</p> <p>6 paragraph under Answer or --</p> <p>7 MR. MIRABELLA: Yes, second</p> <p>8 paragraph under Answer.</p> <p>9 BY MR. MIRABELLA:</p> <p>10 Q. We already kind of covered the</p> <p>11 first sentence.</p> <p>12 In this case, Dr. White, who is</p> <p>13 the decision-maker being referred to in the</p> <p>14 first sentence?</p> <p>15 A. Can I have a moment to read it,</p> <p>16 please.</p> <p>17 Q. Sure.</p> <p>18 A. The decision-maker in this</p> <p>19 sentence for us would be the investigator.</p> <p>20 Q. Do you agree that the</p> <p>21 investigator must offer each party the same</p> <p>22 meaningful access to any information that will</p> <p>23 be used during formal and informal</p> <p>24 disciplinary meetings and hearings, including</p>
<p style="text-align: right;">Page 175</p> <p>1 what the Complainant said to the Title IX</p> <p>2 Officer when the complaint was made, so she</p> <p>3 has access to that information, but the</p> <p>4 Respondent does not?</p> <p>5 MR. PICCERILLI: Objection;</p> <p>6 asked and answered.</p> <p>7 BY MR. MIRABELLA:</p> <p>8 Q. Am I correct?</p> <p>9 A. I do not know specifically the</p> <p>10 mode of relaying information that is happening</p> <p>11 throughout the investigation. So I cannot say</p> <p>12 the Respondent did not have information that</p> <p>13 the Complainant had.</p> <p>14 Q. Do any --</p> <p>15 MS. SCHIMELFENIG: I would like</p> <p>16 to take a break, please, to talk with Al.</p> <p>17 - - -</p> <p>18 (Whereupon, a discussion was held off</p> <p>19 the record.)</p> <p>20 - - -</p> <p>21 MR. MIRABELLA:</p> <p>22 Q. The next page of the Q&A,</p> <p>23 Question, What procedures should a school</p> <p>24 follow to adjudicate a finding of</p>	<p style="text-align: right;">Page 177</p> <p>1 the investigative report?</p> <p>2 A. Yes.</p> <p>3 Q. The next sentence says that:</p> <p>4 The parties should have the opportunity to</p> <p>5 respond to the report in writing in advance of</p> <p>6 the decision of responsibility and/or at a</p> <p>7 live hearing to decide responsibility.</p> <p>8 Did that happen here?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. Can you explain what you're</p> <p>11 referring to?</p> <p>12 A. The parties having an</p> <p>13 opportunity to respond to information during</p> <p>14 what it's calling a live hearing is the</p> <p>15 investigation. So the parties' invitation to</p> <p>16 participate in that investigation.</p> <p>17 Q. No, it says: To respond to the</p> <p>18 report in writing in advance of the decision</p> <p>19 of responsibility.</p> <p>20 Was either the Complainant or</p> <p>21 the Respondent provided the opportunity to</p> <p>22 respond to the report in writing in advance of</p> <p>23 the investigator's report?</p> <p>24 MR. PICCERILLI: Objection. It</p>

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<p style="text-align: right;">Page 178</p> <p>1 doesn't say investigator's report. 2 MR. MIRABELLA: Decision, I'm 3 sorry. Thank you. I agree it doesn't say 4 that. 5 THE WITNESS: Again, I'm 6 reading this as the parties should have the 7 opportunity to respond to the report in 8 writing in advance of the decision of 9 responsibility or at a live hearing. I 10 believe that they had an opportunity at the 11 live hearing. 12 BY MR. MIRABELLA: 13 Q. I don't understand, there was 14 no hearing in this case. 15 MR. PICCERILLI: Objection. 16 That's your conclusion. 17 BY MR. MIRABELLA: 18 Q. Hold it, your testimony is that 19 meeting with the investigator serves the 20 purpose of the hearing; correct? 21 A. Correct, and I tried to explain 22 this earlier. It is an ongoing process of 23 collecting information and hearing from the 24 parties involved. So the same --</p>	<p style="text-align: right;">Page 180</p> <p>1 before there's a finding of responsibility or 2 not responsibility? 3 A. I think that there would be 4 meaningful access to information. 5 Q. That wasn't my question. Only 6 whether you believe that the school has a 7 process in which the Complainant and 8 Respondent can respond to the report of the 9 investigator, to a report in advance in 10 writing before there's a decision of 11 responsibility? 12 A. So I am reading the rest of 13 that sentence: The parties should have the 14 opportunity to respond to the report in 15 writing in advance of the decision of 16 responsibility and/or a live hearing to decide 17 responsibility. 18 Q. The report didn't exist at the 19 time the investigator met with the Complainant 20 or Respondent, would you agree with that? 21 A. Can you repeat that? 22 Q. No report existed as to a 23 finding when the investigator met with the 24 Complainant or the Respondent?</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. When -- 2 MR. PICCERILLI: Hold on, she's 3 not finished her answer. 4 BY MR. MIRABELLA: 5 Q. Go ahead. 6 Q. So the same terminology that 7 was used in the previous model is different in 8 definition from what is being used currently 9 in terms of investigation and hearing. 10 The investigation is an ongoing 11 collection of information as well as an 12 opportunity for the individuals to be heard. 13 Q. But the report that the parties 14 are responding to, when was that provided to 15 the Complainant or the Respondent to give them 16 an opportunity to respond in writing prior to 17 the decision of the responsibility? 18 A. That would be -- that's not a 19 question I can answer. 20 Q. So you don't know if it 21 occurred in this place or not? 22 A. You asked me when it occurred. 23 I do not know when it occurred. 24 Q. Would you expect it to occur</p>	<p style="text-align: right;">Page 181</p> <p>1 A. This does not -- I'm not 2 reading that -- 3 MR. PICCERILLI: Are you asking 4 about this particular case? 5 THE WITNESS: That's not how 6 I'm reading the definition of report. 7 BY MR. MIRABELLA: 8 Q. How are you defining report, 9 Doctor? 10 A. Any report. There's not a 11 definition on what report is. 12 Q. And what's your understanding 13 of what it refers to? Does it have to be 14 something in writing? 15 A. No. 16 Q. It does not; correct? 17 A. Correct. 18 Q. Okay. Was there ever a time 19 when the Sexual Misconduct Policy provided a 20 party to respond in writing to the written 21 report of the investigator before there was an 22 outcome? 23 A. Ever a time? 24 Q. During the institution of the</p>

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<p style="text-align: right;">Page 182</p> <p>1 SMP.</p> <p>2 A. Could you repeat that?</p> <p>3 Q. Sure. From the interim SMP to</p> <p>4 the present time, was there ever a policy or</p> <p>5 process where the Complainant and the</p> <p>6 Respondent were given an opportunity to</p> <p>7 respond to the written report of the</p> <p>8 investigator prior to an outcome of</p> <p>9 responsibility or not responsibility?</p> <p>10 MR. PICCERILLI: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: Can you repeat</p> <p>13 that one more time? I'm sorry.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. Under any iteration of the SMP</p> <p>16 or interim SMP, are the Respondent or the</p> <p>17 Complainant ever provided an opportunity to</p> <p>18 respond to the written report of the</p> <p>19 investigator in writing prior to a finding or</p> <p>20 an outcome meeting?</p> <p>21 A. I don't believe so, no.</p> <p>22 Q. Okay. Let's talk a little</p> <p>23 about the appeal process.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 184</p> <p>1 call it investigation, but there's an initial</p> <p>2 review if it involves a student Respondent.</p> <p>3 Q. And whose responsibility is it</p> <p>4 to do the review?</p> <p>5 A. Dr. Mary-Elaine Perry in</p> <p>6 consultation with Bill Bordak.</p> <p>7 Q. And what is supposed to be</p> <p>8 reviewed during the initial review?</p> <p>9 A. I'd have to look at the policy</p> <p>10 to be able to speak directly to that. I'm not</p> <p>11 involved in that review.</p> <p>12 Q. All right. And that policy you</p> <p>13 believe is memorialized in the Sexual</p> <p>14 Misconduct Policy?</p> <p>15 A. I don't know if the details</p> <p>16 are. That's why I would I need to see the</p> <p>17 Sexual Misconduct Policy if there is</p> <p>18 information about that initial review.</p> <p>19 Q. All right. If it exists and</p> <p>20 it's written down, would you expect it to be</p> <p>21 in the Sexual Misconduct Policy?</p> <p>22 A. Yes.</p> <p>23 Q. I have it, you can take a quick</p> <p>24 peek.</p>
<p style="text-align: right;">Page 183</p> <p>1 MR. MIRABELLA: Let's mark this</p> <p>2 as 5.</p> <p>3 ---</p> <p>4 (Whereupon, Exhibit White-5 was marked</p> <p>5 for identification.)</p> <p>6 ---</p> <p>7 BY MR. MIRABELLA:</p> <p>8 Q. Who is responsible for the</p> <p>9 investigation for the initial report of sexual</p> <p>10 misconduct made by students, either to the</p> <p>11 Title IX Coordinator or to the Office of</p> <p>12 Community Standards or to the Office of Public</p> <p>13 Safety?</p> <p>14 A. Can you repeat that?</p> <p>15 Q. Sure. Who is responsible for,</p> <p>16 if there is any, an initial investigation of</p> <p>17 the report?</p> <p>18 A. What do you mean by who is</p> <p>19 responsible?</p> <p>20 Q. Sure. The student reports</p> <p>21 sexual misconduct to anyone. Is anyone at the</p> <p>22 University charged with doing a preliminary</p> <p>23 investigation?</p> <p>24 A. Yes. I don't know if I would</p>	<p style="text-align: right;">Page 185</p> <p>1 A. Sure. Okay.</p> <p>2 Q. Does anything in the policy</p> <p>3 that speaks to that question?</p> <p>4 A. Yes.</p> <p>5 Q. Can you give me the page</p> <p>6 citation at the bottom?</p> <p>7 A. SJU001203.</p> <p>8 Q. And can you tell me, can you</p> <p>9 read into the record the section of the policy</p> <p>10 you're referring to?</p> <p>11 A. Yes: The initial review will</p> <p>12 consider the nature of the report, the safety</p> <p>13 of all parties and of the campus community,</p> <p>14 and the Complainant's expressed preference for</p> <p>15 resolution.</p> <p>16 Q. And what part of that goes to</p> <p>17 the issue of -- does any part of that go to</p> <p>18 issue of a preliminary investigation?</p> <p>19 A. I don't know what you mean by</p> <p>20 preliminary investigation.</p> <p>21 Q. Sure. Determining that it</p> <p>22 actually happened, where it happened, who was</p> <p>23 involved, whether or not the Complainant</p> <p>24 appears to be credible?</p>

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<p style="text-align: right;">Page 186</p> <p>1 A. No. This is -- if I can just 2 cite the policy, it just states that: For 3 every report of an alleged violation that will 4 be considered for investigation they will make 5 an initial review. They being, I'm 6 paraphrasing: The Title IX Coordinator or 7 Deputy Title IX Coordinator will make an 8 initial review in consultation with the office 9 and/or individual named below. Where the 10 Respondent is a university student the Office 11 of Community Standards will consult on the 12 initial review. 13 Q. And as Assistant Vice 14 President, do you expect that that initial 15 review include a preliminary investigation as 16 to the accuracy of the complaint? 17 MR. PICCERILLI: Objection; 18 asked and answered. 19 BY MR. MIRABELLA: 20 Q. You were just referring to the 21 policy; correct? 22 A. Right, I would state that: The 23 initial review should consider the nature of 24 the report, the safety of all parties and of</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Well, what was your 2 understanding of how Public Safety went about 3 investigating claims of misconduct? 4 A. Sometimes students would 5 actually walk into the Public Safety Office, 6 and that could happen outside of any role of 7 the Title IX Coordinator on the onset. 8 Q. Is the Complainant's background 9 or own history of disciplinary record 10 something that's considered or looked into 11 when they're making an official complaint? 12 A. Again, I may not be the one 13 receiving that official complaint. That may 14 be something that the Title IX Coordinator is 15 involved with, but I can't speak to that. 16 Q. Since you've been Assistant 17 Vice President, are you aware of any 18 circumstances after that date, 2013 to the 19 present, where any female respondents have 20 been responsible for sexual misconduct? 21 A. I don't know offhand. 22 Q. We talked earlier about the 23 school's expectation that the investigator do 24 a thorough investigation; correct?</p>
<p style="text-align: right;">Page 187</p> <p>1 the campus community and the Complainant's 2 expressed preference for resolution. 3 Q. What does it mean consider the 4 nature of the report? 5 A. I am not the one who is 6 involved in this process. 7 Q. Is there anyone else who is 8 responsible for doing the preliminary 9 investigation to determine the validity or 10 accuracy of any of the complaint, date, time, 11 alleged Respondent or anything like that? 12 A. I don't believe so. 13 Q. Before the system changed in 14 2015, if a complaint came in to Dr. Perry for 15 allegation of sexual misconduct, how was the 16 investigation triggered through the Office of 17 Public Safety? Like what was the process? 18 Would she call Public Safety and say she had a 19 complaint? 20 A. I don't know. 21 Q. Were you ever involved in that? 22 A. Between what happened between 23 Mary-Elaine and Public Safety, I don't believe 24 so.</p>	<p style="text-align: right;">Page 189</p> <p>1 A. Correct. 2 Q. I think I touched on this in 3 the earlier questions and answers. Who at the 4 school, if anyone, is responsible for 5 reviewing to make certain that the 6 investigations that are being performed by the 7 investigator are thorough? 8 A. Right, I did answer this 9 question earlier. I'm not -- it's not my 10 responsibility. 11 Q. You didn't know? 12 A. It's not my responsibility, 13 right. 14 Q. And you don't know who that 15 is? 16 A. I mentioned before that 17 Mary-Elaine is the main contact with the Title 18 IX Coordinator. 19 Q. Correct, that was your answer. 20 A. Yes. 21 Q. Is there any policy at the 22 school as to the consideration as to which 23 disciplinary track or section a matter should 24 be investigated under, sort of in between</p>

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<p style="text-align: right;">Page 190</p> <p>1 either sexual misconduct, perhaps something 2 else or something outside of sexual 3 misconduct? 4 MR. PICCERILLI: Object to the 5 form of the question. 6 THE WITNESS: Can you repeat 7 that again. 8 BY MR. MIRABELLA: 9 Q. Sure. Is there any policy at 10 the school or preference with respect to how 11 cases are investigated when they involve 12 student violations if they may or may not 13 implicate sexual conduct? 14 MR. PICCERILLI: Objection to 15 the form of the question. 16 THE WITNESS: Can you break it 17 down a little bit. 18 BY MR. MIRABELLA: 19 Q. He's going to object, but I'll 20 try it this way: If it's a close call, is 21 there any policy at the school as to whether a 22 matter, an alleged misconduct would be 23 investigated under the SMP or the Community 24 Standards process?</p>	<p style="text-align: right;">Page 192</p> <p>1 with allegations, that's part of the review, 2 that's part of the initial review, if there 3 are potential allegations that may fall within 4 the Sexual Misconduct Policy. 5 Q. Back to the appeal process. So 6 first, generally speaking, tell me about how 7 the appeal process works for Community 8 Standards violations, including typical 9 Community Standards violations and including 10 findings of responsibility under sexual 11 misconduct. 12 MR. PICCERILLI: You're going 13 to have to break it up. 14 BY MR. MIRABELLA: 15 Q. Actually, Dr. White, is the 16 process the same for the appeal for a student 17 found responsible under the Community 18 Standards violation as it is for a student 19 found responsible for a Sexual Misconduct 20 Policy violation? 21 A. Yes, with the exception of 22 advisors. 23 Q. Can you explain? 24 A. Within the Sexual Misconduct</p>
<p style="text-align: right;">Page 191</p> <p>1 MR. PICCERILLI: You're right, 2 I'm going to object to the form of the 3 question. If you understand the question you 4 can answer. 5 THE WITNESS: I don't know if I 6 fully understand. What I'm inclined to speak 7 to is the initial review that would happen if 8 there's an alleged violation under sexual 9 misconduct. I don't know if that answers your 10 question. 11 BY MR. MIRABELLA: 12 Q. And that determination is made 13 during the initial review as to whether the 14 case is investigated under the Sexual 15 Misconduct Policy versus through the Community 16 Standards process? 17 A. Yes, for every report of 18 alleged violation that will be considered for 19 investigation under this policy, being the 20 Sexual Misconduct Policy. 21 Q. At the outset who determines 22 whether it falls under that policy or not? 23 A. So when there is an alleged 24 report or when there's a report that comes in</p>	<p style="text-align: right;">Page 193</p> <p>1 Policy there's an opportunity to have an 2 advisor of choice, which is not the case in 3 the regular Community Standards process, the 4 non-SMP process. Through the Community 5 Standards process students are still entitled 6 to have an advisor, but it must be somebody 7 from the University community. 8 Q. What's the policy with respect 9 to a support person or advisor serving as a 10 witness in reporting misconduct? 11 MR. PICCERILLI: Objection to 12 form. 13 THE WITNESS: Can I refer to 14 the Advisor section here? 15 BY MR. MIRABELLA: 16 Q. Yes. 17 MR. PICCERILLI: I think you 18 said support person, so I don't know if you're 19 relating that to advisor. 20 MR. MIRABELLA: I will 21 clarify. 22 MR. PICCERILLI: Okay. Why 23 don't you ask your question so she can review 24 what paragraph it is.</p>

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<p style="text-align: right;">Page 194</p> <p>1 BY MR. MIRABELLA:</p> <p>2 Q. To your knowledge, can a</p> <p>3 student advisor serve as a witness in the</p> <p>4 investigation?</p> <p>5 A. Per the policy an advisor</p> <p>6 cannot serve in a different role during the</p> <p>7 disciplinary process, for example, witness is</p> <p>8 in parentheses here.</p> <p>9 Q. So if a student selects a</p> <p>10 individual who is another student who may have</p> <p>11 been a witness to the information to serve as</p> <p>12 an advisor at the pre-investigation meeting</p> <p>13 that student is then eliminated as a personal</p> <p>14 witness?</p> <p>15 MR. PICCERILLI: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: Right. So the</p> <p>18 University -- again, from the policy, the</p> <p>19 University may remove or dismiss an advisor</p> <p>20 who becomes disruptive or who does not abide</p> <p>21 by the restrictions upon their participation</p> <p>22 as determined by the person conducting the</p> <p>23 meeting.</p> <p>24 BY MR. MIRABELLA:</p>	<p style="text-align: right;">Page 196</p> <p>1 refer back to that person may not abide by the</p> <p>2 restrictions on their participation, so they</p> <p>3 may be removed or dismissed.</p> <p>4 Q. So I'm not -- my question</p> <p>5 wasn't going to whether an advisor exceeded</p> <p>6 the scope of their accepted responsibility to</p> <p>7 serve as an advisor to the Complainant.</p> <p>8 I'm trying to understand what</p> <p>9 that does to their -- whether they can still</p> <p>10 be a witness and the investigator would want</p> <p>11 to talk to them?</p> <p>12 MR. PICCERILLI: Objection to</p> <p>13 form; asked and answered.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. And if your answer is I don't</p> <p>16 know, I don't have that situation come up or</p> <p>17 I'm not sure how that would play out, can the</p> <p>18 University dismiss them as an advisor so the</p> <p>19 investigator can interview them?</p> <p>20 A. I would say the same thing I've</p> <p>21 been saying. I do think it answers the</p> <p>22 question in terms of that if a person does not</p> <p>23 abide by the restrictions on their</p> <p>24 participation the University may remove or</p>
<p style="text-align: right;">Page 195</p> <p>1 Q. No, my question went back to</p> <p>2 the original: If a student selects another</p> <p>3 student to be an advisor and they're also a</p> <p>4 witness to some part of the event, they can no</p> <p>5 longer serve as a witness with respect to the</p> <p>6 complaint?</p> <p>7 A. This is where I would, again,</p> <p>8 say that they would not abide by their</p> <p>9 restrictions on their participation. So that</p> <p>10 the University may remove or dismiss an</p> <p>11 advisor.</p> <p>12 Q. I guess I didn't ask it the</p> <p>13 right way.</p> <p>14 MR. PICCERILLI: I think you</p> <p>15 got the answer that you were looking for.</p> <p>16 MR. MIRABELLA: I just don't</p> <p>17 understand it, so I want to try to get back to</p> <p>18 it.</p> <p>19 BY MR. MIRABELLA:</p> <p>20 Q. What do you understand that to</p> <p>21 mean in the context of advisor who is a</p> <p>22 student and they also have been a witness to</p> <p>23 part or some of the event?</p> <p>24 A. Right. So I would, again,</p>	<p style="text-align: right;">Page 197</p> <p>1 dismiss them.</p> <p>2 Q. I'm not talking about the</p> <p>3 advisor's conduct. I'm talking about the</p> <p>4 advisor's role as to whether they're eligible</p> <p>5 to be a witness if they do not -- if they stay</p> <p>6 their role as advisor, do what they're</p> <p>7 supposed to do as an advisor, have they been</p> <p>8 eliminated as a potential witness?</p> <p>9 A. I think you and I have</p> <p>10 different interpretations of this phrase in</p> <p>11 terms of I'm not seeing that strictly as an</p> <p>12 advisor's conduct. It's their restrictions on</p> <p>13 participation.</p> <p>14 Q. What's the restrictions on</p> <p>15 participation?</p> <p>16 A. An advisor cannot serve in a</p> <p>17 different role during the disciplinary</p> <p>18 process, for example, witness.</p> <p>19 Q. Have you ever been in</p> <p>20 situations where a Complainant identified an</p> <p>21 advisor as someone who was also a witness to</p> <p>22 the event?</p> <p>23 A. Ever in my history outside of</p> <p>24 sexual misconduct?</p>

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<p style="text-align: right;">Page 198</p> <p>1 Q. Ever.</p> <p>2 A. Yes.</p> <p>3 Q. How was it handled?</p> <p>4 A. If they were already</p> <p>5 participating as a witness and then opted to</p> <p>6 be an advisor they were not permitted to do</p> <p>7 so.</p> <p>8 Q. Not permitted to be an advisor?</p> <p>9 A. Correct.</p> <p>10 Q. Was the Complainant told about</p> <p>11 the eligibility of an advisor other than what</p> <p>12 you repeated in the policy?</p> <p>13 A. What is the -- I'm sorry?</p> <p>14 Q. When a Complainant makes a</p> <p>15 report, are they advised or are they informed</p> <p>16 that certain individuals can be an advisor,</p> <p>17 but they can't be witnesses?</p> <p>18 A. So they receive the same</p> <p>19 information as the Respondent, which would</p> <p>20 include not only a version of the policy, a</p> <p>21 copy of the policy, but also the</p> <p>22 Pre-investigation Meeting Checklist. So I</p> <p>23 would like to refer to that to see if there's</p> <p>24 information on there, but they are referred to</p>	<p style="text-align: right;">Page 200</p> <p>1 sanctions?</p> <p>2 A. No.</p> <p>3 Q. Did you participate in any</p> <p>4 decisions regarding the manner -- excuse me,</p> <p>5 which provisions of misconduct the individuals</p> <p>6 of the team were investigated?</p> <p>7 MR. PICCERILLI: I'm sorry, can</p> <p>8 you read that back. I'm having difficulty</p> <p>9 hearing you.</p> <p>10 ---</p> <p>11 (Whereupon, the court reporter read</p> <p>12 back the pertinent information.)</p> <p>13 ---</p> <p>14 THE WITNESS: Can you rephrase</p> <p>15 it?</p> <p>16 MR. MIRABELLA: Sure.</p> <p>17 BY MR. MIRABELLA:</p> <p>18 Q. Did you have anything to do</p> <p>19 with determining whether the team or players</p> <p>20 were investigated under the Sexual Misconduct</p> <p>21 Policy and/or the Community Standards code or</p> <p>22 both?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did you have any role in</p>
<p style="text-align: right;">Page 199</p> <p>1 the policy. So they have the information that</p> <p>2 I just shared.</p> <p>3 Q. Did you have any involvement in</p> <p>4 the investigation of the allegations of</p> <p>5 misconduct directed against the sports team</p> <p>6 that we referenced early in the deposition?</p> <p>7 A. Did I have any involvement, was</p> <p>8 that your question?</p> <p>9 Q. Yes.</p> <p>10 A. Did I have any involvement? I</p> <p>11 can't recall specific involvement, but I'm</p> <p>12 familiar with it, yes. And I was, again, in</p> <p>13 the position in some capacity of overseeing</p> <p>14 the process.</p> <p>15 Q. Did you sit as a hearing</p> <p>16 examiner?</p> <p>17 A. No.</p> <p>18 Q. And do you recall what part of</p> <p>19 the process you oversaw?</p> <p>20 A. I can't recall the date of that</p> <p>21 to know what my position was at the time in</p> <p>22 terms of the capacity that I was in.</p> <p>23 Q. Did you participate in any</p> <p>24 decisions regarding responsibility or</p>	<p style="text-align: right;">Page 201</p> <p>1 determining who would be -- who was identified</p> <p>2 as the Respondent individually in that case?</p> <p>3 A. I don't recall.</p> <p>4 Q. If a third party reports</p> <p>5 misconduct to the Title IX Coordinator</p> <p>6 involving multiple students, whose</p> <p>7 responsibility is it to determine who, if any,</p> <p>8 is investigated as a Respondent?</p> <p>9 MR. PICCERILLI: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I would refer</p> <p>12 back to that initial review. If you would</p> <p>13 like me to repeat that I would.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. No. Is it possible -- or in</p> <p>16 your experience, can the Office of Community</p> <p>17 Standards undertake an investigation with no</p> <p>18 one identified as a Respondent that involves</p> <p>19 multiple students?</p> <p>20 MR. PICCERILLI: Did you say no</p> <p>21 one is identified as a Respondent?</p> <p>22 BY MR. MIRABELLA:</p> <p>23 Q. No one individual or body of</p> <p>24 students is specifically identified as</p>

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<p style="text-align: right;">Page 202</p> <p>1 Respondent, can the Office of Community 2 Standards still undertake an investigation? 3 A. No student or body of students 4 is identified? 5 Q. Not because they're -- strike 6 that. 7 I guess in every investigation 8 somebody is always a Respondent with the 9 exception of a collective body like a team? 10 A. For the student conduct 11 process -- again, this is everything in terms 12 of Title IX, but when there's a student 13 conduct process yes, we are participating in 14 that process when there is a student 15 Respondent or students or a group. 16 Q. Back to the appeal questions 17 generally. Other than the identification of 18 advisors, there is no difference in the appeal 19 process of the SMP or the Office of Community 20 Standards violation findings; correct? 21 A. Another aspect that's different 22 is the equal rights of the Complainant and the 23 Respondent in the sexual misconduct process 24 that is not always present within the</p>	<p style="text-align: right;">Page 204</p> <p>1 A. I would actually -- reversal is 2 not a word that we would use. I would have to 3 further understand what you mean by that. 4 Q. Sure. A Respondent appeals the 5 findings against him or her and the Appeal 6 Panel agrees with the Respondent's objection 7 in the appeal, can be the matter be reversed 8 and set aside the findings of not 9 responsibility? 10 A. No, that is not the outcome of 11 the Appeal Panel. 12 Q. Can the matter be set aside and 13 re-investigated? 14 A. Yes. 15 Q. Have there been any cases in 16 the past calendar year in which the Appeal 17 Panel has set aside a finding and had the 18 matter re-investigated? 19 A. I don't recall. 20 Q. Do you know if it's happened 21 since you've been Vice President? 22 A. My title is not Vice President. 23 Q. Assistant Vice President. I 24 was using that bookmark 2013.</p>
<p style="text-align: right;">Page 203</p> <p>1 Community Standards process. 2 Q. And is that the opportunity for 3 the Complainant and the Respondent to appeal 4 the finding of responsibility? 5 THE COURT REPORTER: I'm sorry, 6 can you repeat that. 7 BY MR. MIRABELLA: 8 Q. Sure. What do you mean by 9 that? 10 A. It's the same rights for both. 11 So it's more than what you just described. 12 It's actually the right to appeal and 13 participate throughout that appeal process 14 just as the Cross-Appellant would. The 15 Complainant and Respondent have the same exact 16 rights. 17 Q. Have any findings of sexual 18 misconduct been reversed on appeal since 19 you've been moderating? 20 A. I can't recall. 21 Q. Were any reversed this year? 22 A. I can't recall. 23 Q. For reversal does it have to be 24 three to zero or it could two to one?</p>	<p style="text-align: right;">Page 205</p> <p>1 A. That's okay. I'm sorry, has 2 that ever happened? 3 Q. Yes, are you aware of that 4 finding of responsibility set aside for 5 re-investigation for the Sexual Misconduct 6 Policy since you've been Assistant Vice 7 President 2013 to the present? 8 A. Again, I would not -- I don't 9 have that offhand. I don't have that 10 information offhand. There's a lot of nuances 11 to what you were just describing. 12 Q. Has a sexual misconduct finding 13 responsibility been set aside for 14 re-investigation this year? 15 A. I can't recall. And again, I 16 also wouldn't call it re-investigation. 17 Q. What would you call it? 18 A. It can be remanded to the 19 investigator or to a new investigator or the 20 outcome could be affirmed. 21 Q. Right. I'm talking about 22 situations -- are you aware of any situation 23 this year where the outcome is not affirmed? 24 A. I can't recall offhand.</p>

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<p style="text-align: right;">Page 206</p> <p>1 Q. Would you agree with me it's 2 rare? 3 A. I would need you to describe 4 rare. 5 Q. There's 29 findings of some 6 responsible, some not responsible cases of 7 sexual misconduct. Do you believe there's 8 been more than one or two situations where the 9 Appeal Panel has remanded it back to the 10 investigator for a new investigation? 11 MR. PICCERILLI: Objection; 12 asked and answered. 13 THE WITNESS: I also don't -- I 14 can't even comment on whether all 29 that you 15 just referenced were appealed. 16 BY MR. MIRABELLA: 17 Q. If an appeal is remanded either 18 for the investigation back to the 19 investigator, is that information set forth in 20 the StarRez system? 21 A. Yes. 22 Q. Is there any way to tell from 23 looking at the list that I gave you, the 24 StarRez cases, whether those cases were</p>	<p style="text-align: right;">Page 208</p> <p>1 THE WITNESS: Yes, SJU. 2 BY MR. MIRABELLA: 3 Q. All right. I was asking 4 generally what are the appeal rights of a 5 Respondent. Is that information set forth 6 anywhere in here? 7 A. They have the right to appeal. 8 Q. Is that Section 8? 9 A. Yes. 10 Q. What are the rights -- what's 11 the Respondent's rights with respect to the 12 process or manner of an appeal? 13 A. Can you break that down for 14 me? Would you like -- 15 Q. Sure. Is the Respondent 16 entitled to see the investigative file prior 17 to appealing? 18 A. Yes. 19 Q. And is the Respondent entitled 20 to see the response of the Complainant, if 21 any, to his or her appeal? 22 A. Yes. 23 Q. So during the appeal process if 24 there's a finding of responsibility, I would</p>
<p style="text-align: right;">Page 207</p> <p>1 remanded either to a new investigator or back 2 to the original investigator and then 3 affirmed? 4 A. No, I wouldn't be able to look 5 at that offhand and know that. 6 Q. What are the appeal rights of 7 the Respondent? 8 A. Can I refer to that? 9 Q. Yes. 10 MR. PICCERILLI: You're 11 referring -- 12 THE WITNESS: To the policy, 13 that's correct. 14 MR. PICCERILLI: The Sexual 15 Misconduct Policy? 16 THE WITNESS: The Sexual 17 Misconduct Policy, yes. I'll tell you the 18 page number when I get there. So I'm looking 19 at SJU001209. 20 BY MR. MIRABELLA: 21 Q. Can you give me the citation 22 again? 23 A. 001209. 24 MR. PICCERILLI: That's SJU.</p>	<p style="text-align: right;">Page 209</p> <p>1 assume that the Respondent -- strike that. 2 If there's a finding of 3 responsibility and the Complainant does not 4 appeal it, I would assume that the Respondent, 5 that person he or she is appealing, would file 6 the first response, would file their appeal 7 first? 8 MR. PICCERILLI: The question 9 is if the Respondent filed first -- 10 BY MR. MIRABELLA: 11 Q. If there's a finding of 12 responsibility the Complainant can also appeal 13 that? 14 A. Correct. 15 Q. If the Complainant is not 16 appealing it, the Respondent would then file a 17 response to the -- they have to file their 18 appeal paper? 19 A. They have the right to do so 20 within five business days of receiving the 21 outcome. 22 MR. PICCERILLI: We can take a 23 quick break? 24 MR. MIRABELLA: Yes.</p>

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<p style="text-align: right;">Page 210</p> <p>1 ---</p> <p>2 (Whereupon, a short break was taken at</p> <p>3 this time.)</p> <p>4 ---</p> <p>5 BY MR. MIRABELLA:</p> <p>6 Q. I got to go back to the Dear</p> <p>7 Colleague Letter. There were some questions</p> <p>8 earlier about the Dear Colleague Letter and</p> <p>9 the guidance issued in 2017; correct?</p> <p>10 A. I'm sorry?</p> <p>11 Q. Do you remember we talked about</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you participate in a review</p> <p>15 of the school's policy as it then existed to</p> <p>16 determine if it was in compliance?</p> <p>17 A. I recall being invited to a</p> <p>18 meeting by our General Counsel.</p> <p>19 Q. Any other involvement or review</p> <p>20 other than that meeting?</p> <p>21 A. To be perfectly honest, I had a</p> <p>22 two-week old at that point and was on</p> <p>23 maternity leave. So I don't recall</p> <p>24 specifically having any conversations. I was</p>	<p style="text-align: right;">Page 212</p> <p>1 BY MR. MIRABELLA:</p> <p>2 Q. At that meeting, which included</p> <p>3 General Counsel, did General Counsel speak?</p> <p>4 A. Yes.</p> <p>5 Q. And was a decision made as a</p> <p>6 result of that meeting as to whether or not --</p> <p>7 by the school that the existing policy was or</p> <p>8 was not in compliance?</p> <p>9 MR. PICCERILLI: Objection to</p> <p>10 attorney-client privilege.</p> <p>11 BY MR. MIRABELLA:</p> <p>12 Q. To your knowledge, I'm not</p> <p>13 asking what the answer was, did General</p> <p>14 Counsel provide a legal opinion to the members</p> <p>15 of SJU who were participating as to whether or</p> <p>16 not the policy was or was not in compliance?</p> <p>17 MR. PICCERILLI: Object to the</p> <p>18 attorney-client privilege.</p> <p>19 BY MR. MIRABELLA:</p> <p>20 Q. Do you know, you were on the</p> <p>21 telephone, so you don't have a sense of how</p> <p>22 many people were at the meeting?</p> <p>23 A. I don't recall.</p> <p>24 Q. Do you know if the meeting was</p>
<p style="text-align: right;">Page 211</p> <p>1 out of the office for three months.</p> <p>2 Q. At that meeting was there a</p> <p>3 handful of people, a lot of people?</p> <p>4 A. I called in.</p> <p>5 Q. Oh, you weren't physically</p> <p>6 present in the meeting?</p> <p>7 A. No.</p> <p>8 Q. Correct?</p> <p>9 A. Correct, I was at home.</p> <p>10 Q. And was a decision made at that</p> <p>11 meeting as to whether or not the school's</p> <p>12 policy was in compliance?</p> <p>13 MR. PICCERILLI: We're going to</p> <p>14 stand on our objection on the basis of the</p> <p>15 attorney-client privilege because it was a</p> <p>16 meeting that was conducted by Counsel, General</p> <p>17 Counsel.</p> <p>18 MR. MIRABELLA: I got to ask a</p> <p>19 bunch of more questions, but you can object as</p> <p>20 you see appropriate, but I want to try to get</p> <p>21 the parameters as to whether or not there was</p> <p>22 compliance or not. Some of these, I think,</p> <p>23 could be answered generally without waiving</p> <p>24 the privilege.</p>	<p style="text-align: right;">Page 213</p> <p>1 memorialized?</p> <p>2 A. I do not know.</p> <p>3 MR. PICCERILLI: You mean in a</p> <p>4 writing of some sort?</p> <p>5 MR. MIRABELLA: Correct.</p> <p>6 MS. SCHIMELFENIG: Off the</p> <p>7 record.</p> <p>8 ---</p> <p>9 (Whereupon, a discussion was held off</p> <p>10 the record.)</p> <p>11 ---</p> <p>12 THE WITNESS: I do not remember</p> <p>13 or I do not know.</p> <p>14 BY MR. MIRABELLA:</p> <p>15 Q. Did you know if anyone other</p> <p>16 than General Counsel made a decision about</p> <p>17 whether or not the existing policy complied or</p> <p>18 didn't comply?</p> <p>19 MR. PICCERILLI: Objection.</p> <p>20 Regarding the content of the meeting,</p> <p>21 regarding during the meeting?</p> <p>22 MR. MIRABELLA: Yes.</p> <p>23 MR. PICCERILLI: Objection;</p> <p>24 attorney-client privilege.</p>

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<p style="text-align: right;">Page 214</p> <p>1 BY MR. PICCERILLI:</p> <p>2 Q. Was there anything done -- did</p> <p>3 you ask any questions of Counsel or Counsel's</p> <p>4 legal opinion as to the new policy?</p> <p>5 MR. PICCERILLI: You can answer</p> <p>6 that question.</p> <p>7 THE WITNESS: I don't recall.</p> <p>8 BY MR. MIRABELLA:</p> <p>9 Q. Did you hear anyone else ask</p> <p>10 questions as to Counsel's opinion as to</p> <p>11 whether or not the SJU policy complied with</p> <p>12 the new guidance?</p> <p>13 MR. PICCERILLI: Objection;</p> <p>14 attorney-client privilege. Actually --</p> <p>15 MR. MIRABELLA: No, not the</p> <p>16 question, the answer is privileged.</p> <p>17 MR. PICCERILLI: No, no, no.</p> <p>18 Going both ways are privileged.</p> <p>19 MR. MIRABELLA: I don't agree.</p> <p>20 I'm trying to do this in a way to eliminate</p> <p>21 further discovery.</p> <p>22 BY MR. MIRABELLA:</p> <p>23 Q. Did anything change about the</p> <p>24 school's implementation or use of its</p>	<p style="text-align: right;">Page 216</p> <p>1 A. It's a typical process for us.</p> <p>2 I believe that -- could I refer to the policy</p> <p>3 in terms of the review piece?</p> <p>4 Q. Sure.</p> <p>5 A. I didn't want to misspeak. So</p> <p>6 SJU001215: Title IX Coordinator will initiate</p> <p>7 the annual review of the policy. Additional</p> <p>8 review of revisions will be conducted as</p> <p>9 needed to comply with legal requirements.</p> <p>10 I didn't want to misspeak about</p> <p>11 that.</p> <p>12 Q. Is that annual review done by</p> <p>13 Dr. Perry?</p> <p>14 A. Yes.</p> <p>15 Q. When is that done, if you</p> <p>16 know?</p> <p>17 A. I don't know if there's regular</p> <p>18 timelines of when that is done.</p> <p>19 Q. Are you aware of participating</p> <p>20 in that annual review since the time of the</p> <p>21 Dear Colleague to the present?</p> <p>22 A. Yes.</p> <p>23 Q. And what issues were under</p> <p>24 review?</p>
<p style="text-align: right;">Page 215</p> <p>1 existing -- to your knowledge, did SJU change</p> <p>2 the investigation or adjudication of sexual</p> <p>3 misconduct claims following that meeting?</p> <p>4 A. I can't say definitively. I</p> <p>5 was out for three months at that time, so I</p> <p>6 don't know that I knew definitively.</p> <p>7 Q. Were there any written changes</p> <p>8 to the policy following that meeting?</p> <p>9 A. I don't recall.</p> <p>10 Q. If they were, how could they be</p> <p>11 discerned? So there was some updates in</p> <p>12 September of 2017. I'm not saying it was or</p> <p>13 wasn't in response to the meeting.</p> <p>14 Is there someone who tracks the</p> <p>15 policy itself, the writing of the policy?</p> <p>16 A. The review of the policy is</p> <p>17 facilitated by Dr. Mary-Elaine Perry.</p> <p>18 Q. And did you participate in any</p> <p>19 further review with Dr. Perry after that</p> <p>20 meeting? I know you were out on maternity, I</p> <p>21 still have to ask.</p> <p>22 A. After September of 2017, yes.</p> <p>23 There's a -- yes.</p> <p>24 Q. Can you describe that process?</p>	<p style="text-align: right;">Page 217</p> <p>1 A. I'm trying to think of any</p> <p>2 specifics. I can't recall specifics right</p> <p>3 now.</p> <p>4 Q. Were there any</p> <p>5 considerations --</p> <p>6 MR. PICCERILLI: Hold on, let</p> <p>7 her --</p> <p>8 MR. MIRABELLA: Oh, sure. I</p> <p>9 thought she was done.</p> <p>10 MR. PICCERILLI: Are you</p> <p>11 finished your answer?</p> <p>12 THE WITNESS: I'm thinking if I</p> <p>13 can remember anything, and I don't know if I</p> <p>14 can, but give me a moment to see if I can</p> <p>15 recall. I can't recall specifics at this</p> <p>16 time, I'm sorry.</p> <p>17 BY MR. MIRABELLA:</p> <p>18 Q. And was that at a meeting with</p> <p>19 Dr. Perry and others?</p> <p>20 A. Yes, I recall a meeting.</p> <p>21 Q. Who was at the meeting?</p> <p>22 A. Bill Bordak was at the</p> <p>23 meeting. I believe Marci Berney was at the</p> <p>24 meeting. Chris Morrin was at the meeting. I</p>

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<p style="text-align: right;">Page 218</p> <p>1 can't recall if there were others or not.</p> <p>2 Q. Given that Chris Morrin was at</p> <p>3 the meeting, can you estimate when the meeting</p> <p>4 took place? It had to be after he was</p> <p>5 retained, I take it?</p> <p>6 A. Yes, yes. I don't recall a</p> <p>7 specific date of the meeting.</p> <p>8 Q. So it had to be after October</p> <p>9 of 2017?</p> <p>10 A. I can't remember when Chris was</p> <p>11 hired. He wasn't hired in October. It was</p> <p>12 the Spring.</p> <p>13 Q. My question was it had to be</p> <p>14 after October 2017?</p> <p>15 A. Yes, yes.</p> <p>16 Q. And when you said the Spring</p> <p>17 you're thinking the Spring of 2018?</p> <p>18 A. Spring or Summer, yes.</p> <p>19 Q. So that was after the events in</p> <p>20 this case with John Doe?</p> <p>21 A. I don't recall the specific</p> <p>22 date.</p> <p>23 Q. Was there any consideration or</p> <p>24 discussion at that meeting as to changing the</p>	<p style="text-align: right;">Page 220</p> <p>1 responsibility?</p> <p>2 A. What do you mean by involved?</p> <p>3 Q. Are you consulted about the</p> <p>4 nature of the sanctions posed by the Sanctions</p> <p>5 Officer?</p> <p>6 A. I may be consulted, yes.</p> <p>7 Q. In what circumstances have you</p> <p>8 been consulted and why?</p> <p>9 A. It's been in a supervisory</p> <p>10 relationship with the Office of Community</p> <p>11 Standards.</p> <p>12 Q. Who is the Sanctions Officer in</p> <p>13 most of the Community Standards cases?</p> <p>14 A. I don't know if I can say most,</p> <p>15 but it's typically split between one -- it's</p> <p>16 either the Assistant Director or Manager and</p> <p>17 the Director. There's two professional staff</p> <p>18 members in the office, which is typically</p> <p>19 between the two of them.</p> <p>20 Q. And at the time that was either</p> <p>21 Bordak or Ms. Forte?</p> <p>22 A. Correct.</p> <p>23 Q. Who is there now instead of Ms.</p> <p>24 Forte?</p>
<p style="text-align: right;">Page 219</p> <p>1 investigative process or adjudicatory process</p> <p>2 in connection with the SMP?</p> <p>3 A. I can't recall specifically.</p> <p>4 MR. PICCERILLI: Which policy</p> <p>5 were you referring to?</p> <p>6 MR. MIRABELLA: The SMP, the</p> <p>7 only one we've been talking about.</p> <p>8 BY MR. MIRABELLA:</p> <p>9 Q. Was there any consideration in</p> <p>10 revisiting guidance on the Dear Colleague</p> <p>11 Letter in the Fall of 2017 at that meeting?</p> <p>12 A. I can't recall the specifics.</p> <p>13 Q. Did anyone write down what was</p> <p>14 talked about at that meeting? Would anyone be</p> <p>15 writing down what was talked about?</p> <p>16 A. I did not.</p> <p>17 Q. Do you get involved in the</p> <p>18 review of sanctions when there's an outcome of</p> <p>19 responsibility?</p> <p>20 MR. PICCERILLI: Did you hear</p> <p>21 that?</p> <p>22 BY MR. MIRABELLA:</p> <p>23 Q. Sure. Are you involved in the</p> <p>24 sanctions for when there's an outcome of</p>	<p style="text-align: right;">Page 221</p> <p>1 A. Courtney LaGanke</p> <p>2 Q. And is the practice generally</p> <p>3 that whoever handles that pre-investigation</p> <p>4 meeting is not the Sanctions Officer?</p> <p>5 A. Yes.</p> <p>6 Q. And why is that?</p> <p>7 A. Sometimes it's scheduling.</p> <p>8 It's the availability of the particular staff</p> <p>9 member during different points in the</p> <p>10 process. There may be incidents when one of</p> <p>11 the two may have served in some sort of</p> <p>12 on-call capacity too at the time of the</p> <p>13 incident, and so to eliminate any sort of</p> <p>14 perception of bias, and also really a</p> <p>15 segregation of duties at that point in terms</p> <p>16 of workload, distribution of workload.</p> <p>17 Q. Does Cary Anderson do the</p> <p>18 initial appeal review?</p> <p>19 A. I work with him as more or less</p> <p>20 the designee. But yes, so I work closely with</p> <p>21 Dr. Anderson in terms of the initial review.</p> <p>22 Q. I'm paraphrasing, but Dr.</p> <p>23 Anderson testified that he gives the go-ahead</p> <p>24 after an appeal is filed, after he reviews it?</p>

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<p style="text-align: right;">Page 222</p> <p>1 A. Yes.</p> <p>2 Q. But in terms of the situation,</p> <p>3 what factors go in to whether he gives the</p> <p>4 go-ahead or not the appeal?</p> <p>5 A. I'm happy to refer to the</p> <p>6 policy.</p> <p>7 Q. What's your understanding? I</p> <p>8 was present for Dr. Anderson's deposition and</p> <p>9 I still don't understand it.</p> <p>10 A. Sure. So typically it's one of</p> <p>11 two things; either not within the time frame</p> <p>12 of the appeal deadline or there are not</p> <p>13 articulated grounds for an appeal, at least</p> <p>14 one ground for an appeal.</p> <p>15 Q. So if it's late Dr. Anderson</p> <p>16 might nix the appeal?</p> <p>17 A. Yes.</p> <p>18 Q. Does he always or does he use</p> <p>19 his discretion?</p> <p>20 A. Does he always do what?</p> <p>21 Q. If the appeal is late, can it</p> <p>22 still be considered or is it a matter of</p> <p>23 discretion of Dr. Anderson?</p> <p>24 A. It's hard to even recall an</p>	<p style="text-align: right;">Page 224</p> <p>1 the -- what's the process, the student is</p> <p>2 informed that they're not going to be heard?</p> <p>3 A. Yes.</p> <p>4 Q. And the student is informed</p> <p>5 that the reason is that there are no grounds</p> <p>6 articulated that warrant an appeal?</p> <p>7 A. Yes.</p> <p>8 Q. What are the percentages of</p> <p>9 students who are found as responsible party</p> <p>10 under the Sexual Misconduct Policy for filing</p> <p>11 an appeal?</p> <p>12 A. I do not know offhand.</p> <p>13 Q. What are the rules with respect</p> <p>14 to the preparation of an appeal by a</p> <p>15 Respondent?</p> <p>16 A. Can you explain what you mean</p> <p>17 by rules?</p> <p>18 Q. Sure. What guidance and what</p> <p>19 instructions are the Respondents given in</p> <p>20 connection with who can prepare the appeal?</p> <p>21 A. Can I refer to the policy?</p> <p>22 Q. Sure.</p> <p>23 A. So, again, SJU001209, and it</p> <p>24 states that the Complainant and/or the</p>
<p style="text-align: right;">Page 223</p> <p>1 instance in that situation to be able to</p> <p>2 answer that.</p> <p>3 Q. Again, I don't know is an</p> <p>4 appropriate response.</p> <p>5 MR. PICCERILLI: I'm sorry,</p> <p>6 what was that?</p> <p>7 BY MR. MIRABELLA:</p> <p>8 Q. If an appeal is filed late,</p> <p>9 does Dr. Anderson always dismiss the appeal or</p> <p>10 does he use discretion on occasion as to how</p> <p>11 to go forward?</p> <p>12 MR. PICCERILLI: And I think</p> <p>13 the witness testified that she can't recall a</p> <p>14 situation where that occurred.</p> <p>15 Am I right?</p> <p>16 THE WITNESS: I'll say I don't</p> <p>17 know, yes.</p> <p>18 BY MR. MIRABELLA:</p> <p>19 Q. And do you recall a situation</p> <p>20 where Dr. Anderson determined that there were</p> <p>21 not articulated grounds for filing the appeal</p> <p>22 and dismissed it?</p> <p>23 A. Yes.</p> <p>24 Q. And in that situation how is</p>	<p style="text-align: right;">Page 225</p> <p>1 Respondent may appeal the outcome.</p> <p>2 Q. Can the Respondent get</p> <p>3 assistance from an advisor?</p> <p>4 A. The advisor as referenced</p> <p>5 earlier in the policy as someone who can</p> <p>6 support the Complainant or Respondent</p> <p>7 throughout the process.</p> <p>8 Q. Is there any section in the</p> <p>9 policy that says that the Respondent can</p> <p>10 prepare the appeal by him or herself?</p> <p>11 A. It's what I just mentioned in</p> <p>12 terms of the first line: The Complainant</p> <p>13 and/or the Respondent may appeal. We're</p> <p>14 naming the parties involved there.</p> <p>15 Q. Is the appeal decision held</p> <p>16 until the Appellant is provided an opportunity</p> <p>17 to inspect the other party's response?</p> <p>18 A. No.</p> <p>19 Q. What's the document collection</p> <p>20 period refer to?</p> <p>21 A. Can you point to where you're</p> <p>22 at, please?</p> <p>23 Q. I thought -- you're the</p> <p>24 moderator of the appeals in the Community</p>

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<p style="text-align: right;">Page 226</p> <p>1 Standards; correct?</p> <p>2 A. Correct.</p> <p>3 Q. You're not familiar with the</p> <p>4 document collection period?</p> <p>5 A. I thought you were referring to</p> <p>6 something specific there.</p> <p>7 Q. Is there a specific time frame</p> <p>8 for the collection of documents for the appeal</p> <p>9 from the Respondent?</p> <p>10 A. From the Respondent?</p> <p>11 Q. Correct.</p> <p>12 A. So for the Appellant or</p> <p>13 Cross-Appellant or Non-Appellant, they both</p> <p>14 have the right to appeal within five business</p> <p>15 dates of the outcome. From that point there</p> <p>16 are then five additional business days for</p> <p>17 which the office would schedule a meeting for</p> <p>18 the Cross-Appellant or Non-Appellant to come</p> <p>19 and inspect the appeal request if they desire</p> <p>20 to do so. Then they have 24 hours from that</p> <p>21 point to respond to the appeal request in</p> <p>22 writing if they choose to do so. At that</p> <p>23 time, after that 24 hours has expired, that is</p> <p>24 the end of the appeal document collection</p>	<p style="text-align: right;">Page 228</p> <p>1 panel may also determine if they, on the next</p> <p>2 page, that they can resolve the appeal without</p> <p>3 a meeting or additional fact-finding and</p> <p>4 whether to have such meeting or fact-finding</p> <p>5 or not is within their sole discretion.</p> <p>6 Q. Does the Sexual Misconduct</p> <p>7 Policy identify what the appropriate paperwork</p> <p>8 is that the moderator provides to the Appeal</p> <p>9 Panel?</p> <p>10 A. No.</p> <p>11 Q. Does the moderator in any way</p> <p>12 inform the Complainant or Respondent of the</p> <p>13 paperwork that's going to be provided to the</p> <p>14 Appeal Panel?</p> <p>15 A. No, not detailed.</p> <p>16 Q. Does the moderator or anyone at</p> <p>17 SJU inform the Complainant or the Respondent</p> <p>18 that additional responses were solicited from</p> <p>19 those involved in the disciplinary process?</p> <p>20 A. No.</p> <p>21 Q. Why is that done ex parte</p> <p>22 without informing the parties?</p> <p>23 MR. PICCERILLI: Objection to</p> <p>24 form; argumentative.</p>
<p style="text-align: right;">Page 227</p> <p>1 period.</p> <p>2 Q. Where is that stated in the</p> <p>3 policy itself?</p> <p>4 A. I'll find it for you. At the</p> <p>5 top of SJU001211. At the top of that page</p> <p>6 it's referencing initially as number five --</p> <p>7 I'm sorry, five business days to respond and</p> <p>8 then the 24 hours to inspect and respond. And</p> <p>9 then following, just above letter E: The</p> <p>10 Appellant shall be provided an opportunity to</p> <p>11 inspect the other party's response, but no</p> <p>12 additional responses are accepted as appeal</p> <p>13 documentation at that point from either party.</p> <p>14 Q. Is there anything in that</p> <p>15 section about additional documentation from</p> <p>16 anyone at the University?</p> <p>17 A. Under letter E on the last</p> <p>18 paragraph on that same page: The moderator</p> <p>19 designee shall advise the panel on matters</p> <p>20 such as the appeal process. The moderator</p> <p>21 designee shall also facilitate the appropriate</p> <p>22 paperwork. And it continues to the</p> <p>23 appropriate paperwork there.</p> <p>24 It goes on to say that: The</p>	<p style="text-align: right;">Page 229</p> <p>1 BY MR. MIRABELLA:</p> <p>2 Q. Why is that done without --</p> <p>3 A. They're informed that any</p> <p>4 documentation relevant to the incident is</p> <p>5 provided to the Appeal Panel. So they do know</p> <p>6 that the Appeal Panel -- and in the policy it</p> <p>7 states that appropriate paperwork will be sent</p> <p>8 to the Appeal Panel.</p> <p>9 Q. There's very clear and explicit</p> <p>10 provisions as to what the Complainant and</p> <p>11 Respondent can submit. Do you agree there's</p> <p>12 nothing in here about additional submissions?</p> <p>13 Do you agree with me?</p> <p>14 MR. PICCERILLI: Objection.</p> <p>15 THE WITNESS: I would mention</p> <p>16 again what I shared about facilitating</p> <p>17 appropriate paperwork.</p> <p>18 BY MR. MIRABELLA:</p> <p>19 Q. Is the definition of</p> <p>20 appropriate paperwork set forth in the SMP?</p> <p>21 A. It is not.</p> <p>22 Q. And is the practice -- are the</p> <p>23 parties informed of this process, if not in</p> <p>24 writing, orally, about what additional</p>

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<p style="text-align: right;">Page 230</p> <p>1 paperwork can be submitted?</p> <p>2 MR. PICCERILLI: Objection to</p> <p>3 form; asked and answered.</p> <p>4 THE WITNESS: Again, not</p> <p>5 explicitly. It's outlined that they will --</p> <p>6 that the Appeal Panel receives appropriate</p> <p>7 paperwork. So it is known to the parties that</p> <p>8 they receive paperwork.</p> <p>9 BY MR. MIRABELLA:</p> <p>10 Q. Are appeal responses usually</p> <p>11 solicited from those involved in the</p> <p>12 disciplinary process during the appeal</p> <p>13 process?</p> <p>14 A. Yes.</p> <p>15 Q. Is it usually the Sanction</p> <p>16 Officer, investigator and the</p> <p>17 pre-investigation meeting with a Community</p> <p>18 Standards representative?</p> <p>19 A. Usually, yes.</p> <p>20 Q. Is it ever other individuals?</p> <p>21 A. I can't recall specifically.</p> <p>22 It may be.</p> <p>23 Q. So we're in the policy. Other</p> <p>24 than the appropriate paperwork, does it give</p>	<p style="text-align: right;">Page 232</p> <p>1 SJU001212. There's a time frame for the</p> <p>2 Complainant and Respondent, in the second</p> <p>3 paragraph: Having an opportunity to object to</p> <p>4 a member of the panel in writing, and that</p> <p>5 deadline is for them to object to that at</p> <p>6 least one business day, but no less than 24</p> <p>7 hours before the panel meeting.</p> <p>8 So we wait until that timeline</p> <p>9 to then produce the records for the Appeal</p> <p>10 Panel to review. So if it's during the week</p> <p>11 then it's about 24 hours. If it just so</p> <p>12 happens to be on a Monday it's a Friday. Or</p> <p>13 if for some reason the University is closed,</p> <p>14 then it's not counted as a business day.</p> <p>15 Q. Is it the school's expectation</p> <p>16 that the panel is drawn from the Community</p> <p>17 Board, Community Service Board?</p> <p>18 A. Community Standards Board.</p> <p>19 Q. That they will have an</p> <p>20 opportunity to review all the documents?</p> <p>21 A. Correct.</p> <p>22 Q. Are they given files in writing</p> <p>23 or are they given access to --</p> <p>24 A. There's an electronic system</p>
<p style="text-align: right;">Page 231</p> <p>1 SJU the right to submit its appeal responses</p> <p>2 from other members of the SJU staff?</p> <p>3 A. I would again point to the</p> <p>4 appropriate paperwork timeline.</p> <p>5 Q. Why aren't -- what would be the</p> <p>6 most -- strike that.</p> <p>7 So if a student doesn't happen</p> <p>8 to review the file after the appeal is</p> <p>9 concluded, the Respondent wouldn't know if a</p> <p>10 response is filed by other members of the</p> <p>11 Discipline Office; correct?</p> <p>12 A. Correct.</p> <p>13 Q. Do you believe that that's a</p> <p>14 fair and equitable way to handle the appeal</p> <p>15 process?</p> <p>16 A. I do. There's no further</p> <p>17 documentation collected from the Respondent or</p> <p>18 the Complainant at the point in the process</p> <p>19 that it describes that.</p> <p>20 Q. Nor are the -- strike that.</p> <p>21 How much time is the Appeal</p> <p>22 Panel given to review a file?</p> <p>23 A. Here, again, I can refer to the</p> <p>24 timeline here for this. I'm on Page</p>	<p style="text-align: right;">Page 233</p> <p>1 that we use throughout our learning management</p> <p>2 system, password protected, et cetera. We</p> <p>3 grant three individual members access and we</p> <p>4 remove the access when the appeal period</p> <p>5 concludes.</p> <p>6 Q. Does anyone ever check to see</p> <p>7 if they actually accessed the documents?</p> <p>8 A. We also give them access -- we</p> <p>9 also bring hard copies to the actual Appeal</p> <p>10 Panel meeting.</p> <p>11 Q. The Appeal Panel meeting is</p> <p>12 typically when a decision is recommended or</p> <p>13 something like that?</p> <p>14 A. Typically, yes.</p> <p>15 Q. In this case we're looking</p> <p>16 over, for example, 60 pages of documents?</p> <p>17 A. Correct.</p> <p>18 Q. Back to my question: Does</p> <p>19 anyone check to see, is there an audit trail</p> <p>20 to see if the Appeal Board are actually</p> <p>21 accessing the file?</p> <p>22 A. Technologically, no. In the</p> <p>23 beginning of every Appeal Panel meeting I</p> <p>24 assure that -- I ask them if they had reviewed</p>

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<p style="text-align: right;">Page 234</p> <p>1 the documentation or not before we begin the 2 conversation. 3 Q. Do you participate in teaching 4 the Appeal Board members that serve on the 5 Appeal Board? 6 A. The training, their training? 7 Some of the training, yes, I participate in. 8 Q. What part of the training? 9 A. Typically the appeal portion. 10 Q. One of the options presented to 11 the panel is to review the case from the 12 investigator; correct? And I'm on Page 1212. 13 A. So I would refer you to the 14 paragraph just above that paragraph, Paragraph 15 4: They can affirm the outcome reached by the 16 investigator or they can, to the next 17 paragraph, remand the case to the investigator 18 or deemed to be appropriate to a new 19 investigator. 20 Q. Does that have to be done three 21 to zero or two to one? 22 A. It can be two to one, but 23 there's conversation to assure there's comfort 24 with the decision.</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. So the investigator gets to 2 respond in writing to the appeal submitted by 3 a Respondent under the SMP appeal process 4 policy; correct? 5 A. I'm sorry? 6 Q. So the investigator gets an 7 opportunity to respond to the appeal of a 8 Respondent in writing; correct? 9 A. Yes. 10 Q. Okay. What's the purpose of 11 having a pre-investigation meeting for an 12 individual to provide a response to the 13 appeal? 14 A. If there are any questions that 15 come up that are referred to during that 16 pre-investigation meeting it's a point in the 17 process that I then ask for that person to 18 provide any response if they would like to do 19 so. 20 Q. Are the -- when the appeal 21 responses are solicited, what guidelines or 22 parameters do you give to them as to what 23 should or should not be considered in the 24 response?</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. Both with respect to affirming 2 or remanding the case back to the 3 investigator? 4 A. Any decision. 5 Q. Can be two to one? 6 A. Yes. 7 Q. After the case is remanded, can 8 it be appealed again? 9 A. No. 10 Q. What's the purpose of having 11 the investigator respond to the appeal? 12 A. So if there's any information 13 that they may be able to share in response to 14 the appeal request, I try to put that in front 15 of the Appeal Panel considering the timeline 16 that's in place for the Appeal Panel to render 17 a decision within five business days of that 18 appeal documentation and collection period 19 expiring. And so I don't direct any response, 20 I merely ask if there is a response and they 21 send it to me within the time frame. 22 Q. Does the investigator normally 23 respond? 24 A. Normally, yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 A. I don't direct any specific 2 requests to them. 3 Q. Do they get any training as to 4 what they may or may not say in the response? 5 A. No. 6 Q. So they can refer to outside 7 statements, investigations, literature, 8 anything they want in response? 9 A. They're -- 10 MR. PICCERILLI: Objection to 11 form. 12 THE WITNESS: They are 13 responding to the request that is in front of 14 them at that time, yes. 15 BY MR. MIRABELLA: 16 Q. But there's no limitations on 17 what they can say or consider or address? 18 A. There's -- I will say there's 19 professional judgment and training that is 20 done for every step of the process. And so, 21 for lack of better, it's not a free-for-all. 22 Q. If they want to talk about 23 other individual's assessments or opinions 24 than themselves that can be included?</p>

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<p style="text-align: right;">Page 238</p> <p>1 MR. PICCERILLI: Objection to 2 form. 3 THE WITNESS: Can you repeat 4 that question? 5 BY MR. MIRABELLA: 6 Q. Sure. If they want to include 7 what others have said to them outside, hearsay 8 statement, or the opinion of another faculty 9 member, they can include that in the response 10 to the appeal? 11 A. Again, there is -- okay, so 12 there is training in terms of professional 13 work responsibility training, and I'm thinking 14 again of the staff of Community Standards and 15 their professional judgment in knowing what 16 they should or should not include in those 17 responses. 18 Q. So if Mr. Bordak wants to talk 19 about something that Dr. Perry told him or a 20 conclusion Dr. Perry reached, he can include 21 it in his response to the appeal? 22 A. Using his professional judgment 23 as appropriate based on the circumstances of 24 the appeal request.</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. After it's remanded to the 2 investigator, the investigator can conduct 3 additional investigation to affirm or modify 4 the initial outcome; correct? 5 A. Correct. 6 Q. However, if the investigator 7 affirms their initial outcome, he then shares 8 it with the Sanctioning Officer? 9 A. Yes. 10 Q. And then is the -- and the 11 Appeal Panel does not -- the matter is 12 just -- cannot be appealed again and the 13 appeal process is concluded; correct? 14 A. Correct. 15 Q. So the Appeal Panel cannot set 16 aside a finding of responsibility; correct? 17 A. Correct. 18 MR. PICCERILLI: You're talking 19 about remanded; correct? 20 MR. MIRABELLA: No, any time. 21 BY MR. MIRABELLA: 22 Q. The Appeal Panel can either 23 affirm the original findings or remand either 24 to the same investigator or a new</p>
<p style="text-align: right;">Page 239</p> <p>1 Q. Have you ever rejected or asked 2 an appeal person to change it? 3 A. No. 4 Q. Not change it, but there was 5 something inappropriate or something that was 6 outside of the scope? 7 A. I don't believe so. 8 Q. Has Dr. Anderson ever replied? 9 A. I can't recall. 10 Q. So the Appeal Panel is 11 either -- back to this for a moment, part of 12 the procedure process. They can either affirm 13 or remand, if they remand they can go back to 14 the same investigator or they can remand the 15 request to go for a new investigator; correct? 16 A. Correct. 17 Q. What's the thinking behind the 18 ability to seek out a new investigator, if 19 any? 20 A. Again, this is part of their 21 evaluation and what they're trained to do. So 22 I can't say explicitly what's prescribed. An 23 example of that could be if they determined 24 that there was bias as an appeal ground.</p>	<p style="text-align: right;">Page 241</p> <p>1 investigator. They cannot set aside the 2 finding of responsibility, interim finding of 3 responsibility; correct? 4 A. Correct. 5 Q. There's no limitation on what 6 the Appeal Panel can consider as part of the 7 record report once reviewing the matter? 8 A. Correct. In fact, on top of 9 that page, SJU001212, they can determine 10 whether any meeting or additional fact-finding 11 is necessary to resolve the appeal. 12 Q. If new evidence comes to after 13 the appeal is concluded, what's the process 14 for it being considered? 15 A. It's SJU001210: Should any 16 other relevant information come to the 17 attention of the University during the appeal 18 process this information may be included by 19 the University in the appeal documentation. 20 Q. Can new information be 21 considered after the appeal process? 22 A. Could I have a moment to look 23 through the Sexual Misconduct Policy? 24 Q. Yes.</p>

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<p style="text-align: right;">Page 242</p> <p>1 A. So I would point to -- okay, 2 here it is, I'm sorry. On SJU001203, again, 3 this is the initial review, the last few 4 sentences on the page: If deemed appropriate 5 the University process, disciplinary process 6 will then commence. The disciplinary process 7 ends when the outcome becomes final. 8 Q. So is there no mechanism for 9 bringing before the University in the 10 disciplinary process new evidence that's 11 discovered after the appeal outcome is final? 12 MR. PICCERILLI: After the 13 outcome or the appeal is final? 14 BY MR. MIRABELLA: 15 Q. Well, what does it mean by 16 outcome becomes final? Does it mean the 17 resolution of the appeal; correct? 18 A. Correct. 19 Q. After the appeal is decided 20 there is no mechanism for the Respondent to 21 bring to the University's attention or have 22 considered new evidence? 23 A. Yes. With that said, student 24 can make reports at any time. So I just want</p>	<p style="text-align: right;">Page 244</p> <p>1 the appeal has been determined, you're 2 referring to Paragraph 6, Time Frame for 3 Reporting, 1197 and 1198 -- and the completion 4 on the top of 1198? 5 A. Correct. 6 Q. You may read it all into the 7 record, but is it fair that that's your 8 response to my question? 9 A. Yes, you asked where it says 10 that in the Sexual Misconduct Policy that 11 reports can be made at any time. 12 Q. Correct. I'm asking you where 13 does it say in the Sexual Misconduct Policy 14 that new information can be brought to the 15 attention of the University after an appeal 16 has been concluded? 17 A. Right, I shared with you that 18 the outcome is final. 19 Q. And the answer is you cannot? 20 A. Correct. 21 Q. All right. Who made the 22 decision or when was the decision made that 23 the parties would not be informed that 24 University personnel would provide a written</p>
<p style="text-align: right;">Page 243</p> <p>1 to give you an outside of the policy. I think 2 it's important to share that. 3 Q. What's make a report mean? 4 A. If the student wants to share 5 information with the University and make a 6 report about something there's not a closed 7 timeline for that. 8 Q. Does it say that anywhere in 9 the Sexual Misconduct Policy? 10 A. So at the bottom of SJU001197 11 and top of SJU001198 the time frame for 12 reporting: It's best to report the alleged 13 act of sexual misconduct immediately, and if 14 at all possible, prior to the last date of 15 enrollment or employment of the Respondent. 16 Proper reporting allows evidence to be 17 preserved, witnesses to be interviewed -- 18 Q. Dr. White, may I interrupt 19 you? 20 A. Yes. 21 Q. You may read all that into the 22 record, but so we have it clear that your 23 answer to my question about a mechanism for 24 the University considering new evidence after</p>	<p style="text-align: right;">Page 245</p> <p>1 reply to the appeal? 2 Q. Can you repeat the question? 3 Q. Sure. Why was the decision 4 made by the University that the parties would 5 not be informed that personnel in the 6 Community Standards Office and the 7 investigator would be providing written 8 response to their appeal? 9 A. We share in the policy that the 10 students can inspect their record at any time, 11 and that is part of their record. 12 Q. That wasn't my question. Why 13 was the decision made that they would not be 14 expressly informed that written responses were 15 being provided in response to the appeal? 16 A. There's no further 17 documentation collected at that point from the 18 Respondent. 19 Q. That's not an answer. 20 MR. PICCERILLI: No, it was an 21 answer. 22 BY MR. MIRABELLA: 23 Q. So how is it in any way 24 undermining the process to notify the student</p>

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<p style="text-align: right;">Page 246</p> <p>1 after they filed an appeal that the University 2 solicits replies that are considered by the 3 Appeal Panel? 4 A. I, again, would point to -- 5 there's a line that says the moderator can 6 facilitate appropriate paperwork. 7 Q. I understand what it says in 8 the policy. I'm trying to understand why the 9 University has chosen to withhold from the 10 students that part of the process and not 11 inform them that responses are solicited by 12 other members of the staff after they file an 13 appeal? 14 MR. PICCERILLI: Objection to 15 form. 16 BY MR. MIRABELLA: 17 Q. Do you have an answer to that? 18 A. I don't have an answer for 19 that. 20 Q. Do you know Jane Roe? 21 A. Can you be more specific? 22 Q. I'm sorry, do you know who Jane 23 Roe is? 24 A. Yes.</p>	<p style="text-align: right;">Page 248</p> <p>1 THE WITNESS: I'm sorry? 2 BY MR. MIRABELLA: 3 Q. He just objected. You can 4 still answer if you know who the advisor was? 5 A. I can't recall her name. I 6 know it was a female student. 7 Q. Do you know if the first name 8 is Jenny, Rowan or Nuria? 9 A. I believe it was Rowan. 10 Q. Do you know if Rowan -- oh, 11 there was already a finding, an outcome; 12 correct? 13 A. Correct. 14 Q. Did you speak with Rowan? 15 A. No. She was an advisor. 16 Q. Did you speak with Jane Roe? 17 A. Yes. 18 Q. And what did you say to her, 19 what did she say to you? 20 A. It was her opportunity to 21 inspect the appeal request and so she did 22 that. And she asked a few questions about the 23 appeal process. I don't recall specifically 24 what it was, but it was a brief meeting.</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. All right. Did you ever meet 2 her or speak with her before February 23rd of 3 2018? 4 A. I'd have to -- I'm not sure 5 what February 23rd is. I'm not familiar with 6 the dates. 7 Q. Before this case? 8 A. Before this case, no, I don't 9 believe so. 10 Q. Did you meet or speak with her 11 after this case? 12 A. Yes. 13 Q. When? 14 A. During her opportunity to 15 inspect the appeal request. 16 Q. And who was present with you 17 when you met her? 18 A. Her advisor. 19 Q. Is that another student? 20 A. Yes, it is. 21 Q. And do you know the first name 22 of that student or initials? 23 A. I can't remember. 24 MR. CHESNEY: Objection.</p>	<p style="text-align: right;">Page 249</p> <p>1 Maybe about 20 to 30 minutes. 2 Q. Is the policy of the school 3 that the Respondent or the Complainant is 4 advised that they have to do the appeal 5 themselves? 6 A. Like I mentioned before, we 7 named the parties in terms of the Complainant 8 and the Respondent being the ones that must 9 appeal. 10 Q. In addition to that, are they 11 told -- is your practice to have either the 12 Community Standards Office or someone there to 13 say you have to prepare the appeal yourself? 14 A. It's the student's right, yes. 15 It's the student's right to an appeal. It's 16 the student process. 17 Q. Right. Can the student have an 18 attorney prepare it? 19 A. No. 20 Q. Does it say that anywhere in 21 the policy? 22 A. I don't believe so, but we name 23 who has the right to appeal. 24 Q. Can the student consult with</p>

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<p style="text-align: right;">Page 250</p> <p>1 anyone in connection with preparing the 2 appeal? 3 A. We don't have any limitations 4 on that. 5 Q. But the student can't have an 6 attorney prepare the appeal? 7 A. The student is the one who has 8 the right to appeal. 9 Q. And is it the school's position 10 that the student is not entitled to have an 11 attorney prepare the appeal? 12 A. The student must be the one 13 that submits the appeal. 14 Q. Did you have any other 15 conversations with or interactions with Jane 16 Roe? 17 A. Not outside of the e-mail 18 communications that I had with both parties 19 about the appeal process. 20 Q. Did Jane Roe disclose to you or 21 discuss with you any details of the complaint 22 she filed? 23 A. No. 24 Q. Did Jane Roe disclose or</p>	<p style="text-align: right;">Page 252</p> <p>1 sexual misconduct process and advisor. 2 Q. Is there any situations where a 3 Complainant has appealed an outcome of not 4 responsibility? 5 A. A Complainant, is that what you 6 said? 7 Q. Sure. 8 A. I can't recall offhand. 9 Q. If that, in fact, occurred 10 would you follow the same process you do when 11 there's been a finding of responsibility 12 appealed by the Respondent? 13 A. Absolutely. 14 Q. Did you consult with Bill 15 Bordak in connection with the sanctions for 16 Mr. Doe? 17 A. I can't recall. 18 Q. What's your understanding of a 19 student's eligibility for international study 20 if there's a finding of responsibility? 21 MR. PICCERILLI: Objection to 22 form. 23 THE WITNESS: Could you 24 maybe --</p>
<p style="text-align: right;">Page 251</p> <p>1 discuss with you any of the events surrounding 2 the actual complaint? 3 A. No. 4 MR. PICCERILLI: Can we take a 5 short break? 6 MR. MIRABELLA: Sure. 7 --- 8 (Whereupon, a short break was taken at 9 this time.) 10 --- 11 BY MR. MIRABELLA: 12 Q. Other than soliciting the 13 individuals we covered, do you do any 14 independent investigation to determine if 15 additional evidence or documents is suitable 16 to be submitted to the panel? 17 A. No. 18 Q. Is the process -- I think you 19 said this, but the process you described 20 covering the appeal is pretty much identical 21 whether it's under the SMP or not? 22 A. There's a few variations that I 23 discussed in terms of Respondents and 24 Complainants having equal rights under the</p>	<p style="text-align: right;">Page 253</p> <p>1 BY MR. MIRABELLA: 2 Q. Sure. If a student is involved 3 in the discipline process and there's been a 4 finding of responsibility against the student, 5 is that automatically ineligibility for 6 international study? 7 MR. PICCERILLI: Objection to 8 form. 9 THE WITNESS: No, not a finding 10 of responsibility. 11 BY MR. MIRABELLA: 12 Q. What, if anything, impacts the 13 student's eligibility for international 14 travel? 15 A. I can't speak specifically to 16 this. We were not involved in that. I can't 17 speak specifically. I'm not involved in that 18 communication between Community Standards and 19 the Center for International Programs. 20 Q. Have you been involved in any 21 disciplinary actions or complaints involving 22 Jane Roe as a Respondent? 23 A. No, I don't believe so. 24 Q. Do you know if Jane Roe ever</p>

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<p style="text-align: right;">Page 254</p> <p>1 had a Community Standards violation as a 2 Respondent? 3 A. I believe so, yes. 4 Q. Do you know how many? 5 MR. PICCERILLI: Objection. 6 She has disclosed at her deposition, Jane Roe 7 that is, that she had an alcohol issue or a 8 drug issue and we view that as -- she gave 9 that testimony on the record under oath. We 10 view that as her prior consent to discuss that 11 issue. 12 So with respect to those issues 13 you may ask questions, but I don't know that 14 there are any other issues, but if there are 15 other issues there's no prior consent to 16 disclose that information, and it is unrelated 17 to this particular incident. 18 MR. MIRABELLA: I won't know 19 until I get the answers. 20 BY MR. MIRABELLA: 21 Q. Were you involved -- you're 22 aware that those situations existed, but you 23 weren't directly involved? 24 A. Right, and I don't know if I</p>	<p style="text-align: right;">Page 256</p> <p>1 Complainant and Respondent? 2 MR. PICCERILLI: Objection. 3 BY MR. MIRABELLA: 4 Q. Of the cases you have been on 5 involved in on the appeal? 6 MR. PICCERILLI: Objection to 7 form. Can you answer the question? 8 THE WITNESS: I can't recall 9 offhand. 10 BY MR. MIRABELLA: 11 Q. The allegations against Mr. Doe 12 was that he squeezed her neck while they were 13 kissing. Do you believe that meets the 14 definition of sexual assault of the policy? 15 A. I was not the one who was in 16 the position of investigating and making a 17 decision on that. 18 Q. So is the answer you don't 19 know? 20 A. I would not answer that 21 question. I do not know. 22 Q. Was an appeal filed in the 23 complaint -- in the matter in which the 24 athletic team was investigated?</p>
<p style="text-align: right;">Page 255</p> <p>1 recall offhand any or all of those situations, 2 yes. 3 Q. Did you come to learn at any 4 point in time whether Jane Roe was on 5 probation for any Community Standards 6 violation? 7 A. I don't recall that. 8 Q. Do you know if she's on 9 probation now? 10 A. I do not know that. 11 Q. Do you believe it's the 12 responsibility of the investigator to do a 13 thorough investigation? 14 A. Yes. 15 Q. And in this case the 16 investigator spoke with the Complainant and 17 Respondent, but no other witnesses. Under the 18 circumstances do you believe that was a 19 thorough investigation? 20 A. I don't know all the details of 21 the investigation, so I cannot weigh in on 22 that. 23 Q. Do you know if the investigator 24 normally speaks to someone other than the</p>	<p style="text-align: right;">Page 257</p> <p>1 A. I don't recall. 2 Q. Would you have been involved in 3 2015 as the moderator? 4 A. I may have been, but I also 5 have a period of time that I was on maternity 6 leave in 2015, so I don't recall. 7 Q. Since you've been the Assistant 8 Vice President, have you been the moderator 9 except for when you were out on maternity 10 leave? 11 A. Yes, or out of the office for 12 other reasons, yes. 13 Q. Who else served as moderator? 14 A. Dr. John Jeffrey. 15 Q. Do you have any other knowledge 16 about Roe prior to getting ready for this 17 deposition in terms of the background or 18 history or what we already talked about? 19 A. No. 20 Q. Did you know Doe before the 21 incident? 22 A. No. 23 Q. When did you first learn about 24 the misconduct claim against Doe?</p>

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<p style="text-align: right;">Page 258</p> <p>1 A. I can't recall specifically.</p> <p>2 It would have preceded the pre-investigation</p> <p>3 meeting.</p> <p>4 Q. If the investigator needed</p> <p>5 additional information about the Complainant</p> <p>6 or Respondent about anything having to do with</p> <p>7 this case, who does she interface with to get</p> <p>8 the information or request it?</p> <p>9 A. I'm not sure specifically. I</p> <p>10 can't answer. I don't know who she would call</p> <p>11 for information.</p> <p>12 Q. Not you?</p> <p>13 A. No.</p> <p>14 Q. Not the appeal moderator?</p> <p>15 A. No.</p> <p>16 Q. Do you recall who you learned</p> <p>17 about the case from or the claim prior to the</p> <p>18 appeal?</p> <p>19 A. I cannot recall.</p> <p>20 Q. Do you recall any of the</p> <p>21 appeals you handled in which there were</p> <p>22 similar allegations?</p> <p>23 MR. PICCERILLI: Similar</p> <p>24 allegations regarding the grounds for appeal</p>	<p style="text-align: right;">Page 260</p> <p>1 Malloy?</p> <p>2 A. Do I have responsibility to</p> <p>3 oversee the initial investigation?</p> <p>4 Q. Not the initial, the</p> <p>5 investigation.</p> <p>6 A. By way of it being part of the</p> <p>7 Community Standards process and I work with</p> <p>8 the Community Standards process, but it's part</p> <p>9 of our Community Standards process. I have</p> <p>10 supervisory responsibility for that</p> <p>11 department. Otherwise no.</p> <p>12 Q. Right. So in your</p> <p>13 responsibilities, were you given reports from</p> <p>14 Dr. Perry or anyone else about what was or</p> <p>15 wasn't done in the investigation by the</p> <p>16 investigator?</p> <p>17 A. No.</p> <p>18 Q. And did you review the</p> <p>19 investigator's findings before there was a</p> <p>20 final outcome?</p> <p>21 A. No.</p> <p>22 Q. Did you review the evidence in</p> <p>23 the investigator's findings after there was a</p> <p>24 final outcome?</p>
<p style="text-align: right;">Page 259</p> <p>1 or --</p> <p>2 MR. MIRABELLA: No, regarding</p> <p>3 the underlying incident.</p> <p>4 THE WITNESS: I think you have</p> <p>5 to be more specific.</p> <p>6 BY MR. MIRABELLA:</p> <p>7 Q. Sure. Claims of sexual assault</p> <p>8 where the Respondent and the Complainant both</p> <p>9 agree there was consent to kissing, but then</p> <p>10 there was an issue of consent concerning</p> <p>11 additional contact?</p> <p>12 A. No, I can't recall offhand.</p> <p>13 No.</p> <p>14 Q. Do you recall any other</p> <p>15 situations involving sexual assault where the</p> <p>16 Complainant and Respondent were both</p> <p>17 clothed -- I'll withdraw that.</p> <p>18 Do you know anything about why</p> <p>19 there was initially a no contact restriction</p> <p>20 and that changed following the</p> <p>21 pre-investigation meeting?</p> <p>22 A. I do not know that.</p> <p>23 Q. Do you have any responsibility</p> <p>24 to oversee the initial investigation by</p>	<p style="text-align: right;">Page 261</p> <p>1 A. A final outcome?</p> <p>2 Q. So the --</p> <p>3 MR. PICCERILLI: You mean after</p> <p>4 appeal?</p> <p>5 BY MR. MIRABELLA:</p> <p>6 Q. Separate and apart from your</p> <p>7 work with the appeal process as a moderator,</p> <p>8 did you make any independent review or</p> <p>9 assessment of the investigator's findings?</p> <p>10 A. Assessment of that, no, I did</p> <p>11 not.</p> <p>12 Q. Did you review it as part -- in</p> <p>13 any way in connection with your supervisory</p> <p>14 responsibility after the fact?</p> <p>15 A. After what fact?</p> <p>16 Q. After the appeal was</p> <p>17 concluded.</p> <p>18 A. After the appeal, I mean I</p> <p>19 worked facilitating the appeal process and the</p> <p>20 appropriate paperwork. So I have -- yes, I</p> <p>21 have the Appeal Packet. I have access to</p> <p>22 that.</p> <p>23 Q. I understand that, but are you</p> <p>24 tasked with also verifying and ensuring that</p>

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<p style="text-align: right;">Page 262</p> <p>1 the underlying investigation was done 2 thoroughly and adequately? 3 A. No. 4 Q. Are you aware of any situations 5 where a Complainant identified student 6 advisors who then were ineligible to serve as 7 witnesses? 8 I mean, it's an awkward 9 question. I guess I'm trying to -- where a 10 Complainant identifies advisors, individuals 11 who normally would be witnesses to the 12 complaint? 13 A. Ever in my -- 14 Q. Anything that jumps to mind? 15 A. I can't recall a specific 16 incident. 17 Q. If a Complainant makes an 18 allegation of sexual misconduct and there's 19 evidence of drinking or drug use, is the 20 Complainant provided immunity from any 21 potential claims in connection with drinking 22 or drug use; correct? 23 A. I would refer to the amnesty 24 for students who report.</p>	<p style="text-align: right;">Page 264</p> <p>1 don't want that to be a deterrent for a 2 student to report sexual misconduct. So there 3 may be amnesty there. 4 But we do go on to say that we 5 may still initiate some initial educational 6 sanctions and other things in terms of our 7 response to that, but it may not be through a 8 formal charge of the student code. 9 Q. Did you learn anything else 10 about the investigation from other members of 11 the SJU staff, either Community Standards or 12 elsewhere, that we haven't specifically 13 discussed? 14 A. No. 15 Q. Emily Forte testified that she 16 informed the Respondent that he will get to 17 see the Incident Report at the time of the 18 meeting with the investigator. Is that 19 inconsistent with your understanding of the 20 practice of how cases are investigated? 21 MR. PICCERILLI: Can I have the 22 question back. 23 --- 24 (Whereupon, the court reporter read</p>
<p style="text-align: right;">Page 263</p> <p>1 Q. I said immunity, amnesty? 2 A. Correct. 3 Q. Does the amnesty pertain to the 4 Complainant in that situation? 5 A. Can I refer to -- 6 Q. Sure. 7 A. I'm looking at SJU001198. 8 Q. Would you read it into the 9 record. Do you have it? 10 A. Would you like me to read the 11 entire paragraph? 12 Q. Where we at, 11 -- 13 A. 1198, Number 7. 14 MR. PICCERILLI: That's SJU. 15 BY MR. MIRABELLA: 16 Q. I'm not going to ask you to 17 read it into the record. I do want to 18 understand what you're -- how this is used and 19 what it's meant to convey to the students, 20 your understanding, through your lens. 21 A. Sure. So students who report, 22 and if they're -- if a student reports and 23 they've involved in some sort of drinking or 24 using drugs at the time of the incident, we</p>	<p style="text-align: right;">Page 265</p> <p>1 back the pertinent information.) 2 --- 3 MR. PICCERILLI: I'm going to 4 object to the form of the question to the 5 extent that it may be inconsistent with Emily 6 Forte's testimony. You can answer. 7 THE WITNESS: I'm not aware of 8 what the pre-investigation meetings entailed 9 in terms of conversations that take place 10 during those meetings to determine whether or 11 not it's inconsistent. 12 BY MR. MIRABELLA: 13 Q. Is the practice and policy of 14 SJU that the Respondent gets to see the 15 Incident Report, if not before, at the time of 16 meeting with the investigator? 17 A. I'm not sure, again, what the 18 investigator does during the meeting, but we 19 do not share the investigative report prior to 20 that. There's not an investigative report at 21 that point. We don't share the report prior 22 to that per my earlier comments about the 23 integrity of the investigation. 24 Q. So is there is an Incident</p>

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<p style="text-align: right;">Page 266</p> <p>1 Report or an initial complaint in writing, 2 that's not shared with the Respondent prior to 3 the meeting with the investigator; correct? 4 A. Correct. 5 Q. And what is shared by the 6 investigator at that meeting is not -- is 7 something determined only by the investigator? 8 A. Correct. 9 Q. Does the school ever use dual 10 investigators, two investigators for a 11 reported incident? 12 MR. PICCERILLI: A Sexual 13 Misconduct Policy? 14 MR. MIRABELLA: Yes. 15 MS. SCHIMELFENIG: A team? 16 MR. MIRABELLA: A team. 17 THE WITNESS: Ever? 18 BY MR. MIRABELLA: 19 Q. Yes, ever. 20 A. A team of investigators, I 21 don't believe so. 22 Q. In terms of the investigation 23 into the complaint of sexual misconduct, 24 what's your understanding as to who -- does</p>	<p style="text-align: right;">Page 268</p> <p>1 the investigation of the incident? 2 A. That would be part of the 3 initial review. 4 Q. So does the University still 5 have the same burden of investigating the case 6 whether a Respondent participates or does not 7 participate? 8 A. Can I refer to the policy? 9 Q. Do you know the answer to that 10 without referring to the policy? 11 A. I believe there's something in 12 the policy and I don't want to misspeak. 13 Q. All right. Refer to the 14 policy. 15 A. So on SJU001199, Sexual 16 Misconduct Policy, I'm on the second 17 paragraph: The fact that an individual 18 (complainant, reporter, respondent and/or 19 witnesses) refuses to participate in the 20 university process does not mean that the 21 disciplinary process will not take place if 22 the university deems it appropriate to move 23 forward with that process. 24 Q. It doesn't mean the University</p>
<p style="text-align: right;">Page 267</p> <p>1 the burden fall on the school or the 2 Complainant or Respondent to conduct a 3 thorough and fair investigation? 4 A. Can you repeat that again? 5 Q. Sure. Once a complaint is made 6 of sexual misconduct against a student, whose 7 responsibility -- whose burden is it to do a 8 thorough and fair investigation? 9 A. Well, it's certainly the 10 institution's responsibility to ensure that 11 there's a thorough, impartial, fair and timely 12 process, but it's also the students involved 13 to provide the information. 14 Q. Does the Respondent have the 15 burden of proof to provide evidence in his 16 response? 17 A. Can you explain what you mean 18 by burden of proof? 19 MR. PICCERILLI: That's a legal 20 term. Objection. 21 BY MR. MIRABELLA: 22 Q. If the Respondent chooses not 23 to participate, does that in any way change 24 the University's responsibility in terms of</p>	<p style="text-align: right;">Page 269</p> <p>1 will move forward with the process, it means 2 the University may exercise -- 3 A. Correct. 4 Q. My question was: Who has the 5 burden of proof once a complaint has been 6 filed in connection with the allegations of 7 sexual misconduct, regardless of whether the 8 Complainant or the Respondent participates? 9 A. What do you mean by burden of 10 proof? 11 Q. Who does the responsibility 12 fall upon to make sure there's adequate 13 evidence to support the findings? Would that 14 burden be as between the student, the 15 Respondent or Complainant or all three? 16 MR. PICCERILLI: The student, 17 the Respondent or Complainant? I'm not 18 sure -- 19 BY MR. MIRABELLA: 20 Q. I'm sorry, Respondent, 21 Complainant or University or all three or 22 none? 23 A. I think you're talking, again, 24 about initial review in terms of evaluating</p>

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<p style="text-align: right;">Page 270</p> <p>1 the initial information.</p> <p>2 Q. I'm not.</p> <p>3 A. So I need you to --</p> <p>4 Q. Sure. Under Title IX there's a</p> <p>5 complaint of sexual misconduct filed by a</p> <p>6 Complainant student against a Respondent</p> <p>7 student, who has the burden for establishing</p> <p>8 that it happened or didn't happen or that</p> <p>9 there's finding of not responsibility? Where</p> <p>10 does that burden rest?</p> <p>11 A. It's the investigator.</p> <p>12 Q. And the investigator is serving</p> <p>13 as the proxy to the school; correct?</p> <p>14 MR. PICCERILLI: Objection to</p> <p>15 form.</p> <p>16 BY MR. MIRABELLA:</p> <p>17 Q. Am I correct?</p> <p>18 A. Can you explain what you mean</p> <p>19 by proxy.</p> <p>20 Q. Well, the investigator is</p> <p>21 retained by the school to conduct an</p> <p>22 investigation; correct?</p> <p>23 A. Correct.</p> <p>24 Q. And if the school doesn't</p>	<p style="text-align: right;">Page 272</p> <p>1 MR. PICCERILLI: I think you</p> <p>2 misspoke there. I think you said the student</p> <p>3 decides not provide --</p> <p>4 MR. MIRABELLA: Not to</p> <p>5 participate.</p> <p>6 MR. PICCERILLI: You said</p> <p>7 responsibility. But in any event, what's the</p> <p>8 question?</p> <p>9 BY MR. MIRABELLA:</p> <p>10 Q. If the Respondent or the</p> <p>11 Complainant chooses not to participate, does</p> <p>12 that change the burden upon the University to</p> <p>13 conduct a thorough investigation?</p> <p>14 A. I do think my reference to the</p> <p>15 initial review is relevant here. It evaluates</p> <p>16 the nature of the complaint and the desire of</p> <p>17 the Complainant. So to your point about what</p> <p>18 the Complainant would like to do or not, that</p> <p>19 does weigh in to the initial review.</p> <p>20 Q. Under Title IX, does the burden</p> <p>21 to complete an investigation fall on the</p> <p>22 University or not?</p> <p>23 A. I think I answered this. The</p> <p>24 University has the obligation to determine as</p>
<p style="text-align: right;">Page 271</p> <p>1 retain an investigator, where would that</p> <p>2 burden fall? Would it fall on the school?</p> <p>3 MR. PICCERILLI: Objection to</p> <p>4 form.</p> <p>5 MR. MIRABELLA: I don't think</p> <p>6 it's that complicated a question.</p> <p>7 MR. PICCERILLI: Well --</p> <p>8 BY MR. MIRABELLA:</p> <p>9 Q. So who's the investigator</p> <p>10 acting on behalf of when the investigation is</p> <p>11 performed?</p> <p>12 A. The University.</p> <p>13 Q. And the burden to complete the</p> <p>14 investigation, review the evidence falls on</p> <p>15 the investigator who is acting on behalf of</p> <p>16 the University?</p> <p>17 A. Correct. And as I mentioned</p> <p>18 before, there's also responsibility of the</p> <p>19 students involved to provide the information.</p> <p>20 Q. I guess my question is: If the</p> <p>21 student chooses not to provide responsibility,</p> <p>22 does that change the burden that's upon the</p> <p>23 University to conduct a fair and full</p> <p>24 investigation?</p>	<p style="text-align: right;">Page 273</p> <p>1 well as the students to provide information.</p> <p>2 The decision is made based upon the</p> <p>3 information made available.</p> <p>4 Q. Do you believe that the burden</p> <p>5 upon the University is any way dependent on</p> <p>6 whether the students participate?</p> <p>7 A. Can you repeat that?</p> <p>8 Q. Once a complaint of sexual</p> <p>9 misconduct is filed, regardless if the student</p> <p>10 chooses not to participate, does that in any</p> <p>11 way impact the University's obligation to a</p> <p>12 thorough and fair investigation under Title</p> <p>13 IX?</p> <p>14 A. Yes, I'm going to continue to</p> <p>15 refer to the initial review and the factors</p> <p>16 considered during the initial review for how</p> <p>17 the University responds based on the</p> <p>18 participation and information.</p> <p>19 Q. Doctor, I just don't think</p> <p>20 that's a responsive answer, but we've been</p> <p>21 around this three or four times already.</p> <p>22 A. Can I add?</p> <p>23 MR. PICCERILLI: There's no</p> <p>24 question. If you need to clarify something go</p>


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<p style="text-align: right;">Page 274</p> <p>1 ahead.</p> <p>2 THE WITNESS: Well, it's part</p> <p>3 of this. So I'm on SJU0001196: There are</p> <p>4 times when the university may not be able to</p> <p>5 honor a request for confidentiality or that no</p> <p>6 investigation into a particular incident is</p> <p>7 conducted or disciplinary action taken in</p> <p>8 order to provide a safe, nondiscriminatory</p> <p>9 environment for all members of the SJU</p> <p>10 community. And then there are individuals</p> <p>11 that have been designated to evaluate requests</p> <p>12 for confidentiality.</p> <p>13 Q. Is that your answer to my</p> <p>14 question?</p> <p>15 A. Yes.</p> <p>16 Q. Now, may I refer you back to</p> <p>17 the Question and Answer Exhibit, the guidance</p> <p>18 issued in 2017, specifically Page 3 and 4, the</p> <p>19 answer to Question 6.</p> <p>20 Q. Okay. And we already discussed</p> <p>21 you're familiar with that; contract?</p> <p>22 A. Yes.</p> <p>23 Q. And it's part of your job</p> <p>24 responsibilities; correct?</p>	<p style="text-align: right;">Page 276</p> <p>1 responsibility only if the students cooperate</p> <p>2 and provide information?</p> <p>3 A. Only if they cooperate, but</p> <p>4 based on the information available is when the</p> <p>5 investigation obviously -- that's what it's</p> <p>6 based on, the information available.</p> <p>7 Q. And that's your interpretation</p> <p>8 of what it means when it says the burden is on</p> <p>9 the school, not on the parties, to gather</p> <p>10 sufficient evidence?</p> <p>11 A. I said I agree with what is</p> <p>12 said here, as well as incorporating the</p> <p>13 information collected.</p> <p>14 Q. Well, you're agreeing with it,</p> <p>15 but you're adding to it; correct?</p> <p>16 A. Correct.</p> <p>17 Q. Because this doesn't say</p> <p>18 anything about the responsibility of the</p> <p>19 parties to cooperate or to participate;</p> <p>20 correct?</p> <p>21 MR. PICCERILLI: This is</p> <p>22 getting argumentative.</p> <p>23 BY MR. MIRABELLA:</p> <p>24 Q. Do you agree with me?</p>
<p style="text-align: right;">Page 275</p> <p>1 A. Yes.</p> <p>2 Q. And you're familiar with the</p> <p>3 Q&A and the Dear Colleague Letters that have</p> <p>4 been issued in 2017?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Would you read into the</p> <p>7 record the first full sentence of the Answer</p> <p>8 to Question 6, so the top of Page 4.</p> <p>9 A. In every investigation</p> <p>10 conducted under the school's grievance</p> <p>11 procedures, the burden is on the school and</p> <p>12 not on the parties to gather sufficient</p> <p>13 evidence to reach a fair, impartial</p> <p>14 determination as to whether sexual misconduct</p> <p>15 has occurred, and if so, whether a hostile</p> <p>16 environment has been created that must be</p> <p>17 redressed.</p> <p>18 Q. Do you agree with that</p> <p>19 statement?</p> <p>20 A. Again, I do think it's the</p> <p>21 institution's responsibility, but I think that</p> <p>22 there is responsibility for the students to</p> <p>23 provide the information.</p> <p>24 Q. So you think it's the school's</p>	<p style="text-align: right;">Page 277</p> <p>1 A. Correct, and I also just added</p> <p>2 about in the policy where we note that</p> <p>3 students may not participate.</p> <p>4 Q. Let me check my notes. Did you</p> <p>5 speak with the investigator about the results</p> <p>6 of her investigation prior to her completing</p> <p>7 the investigation?</p> <p>8 MR. PICCERILLI: You're talking</p> <p>9 about in this case?</p> <p>10 MR. MIRABELLA: Yes.</p> <p>11 THE WITNESS: I'm not aware.</p> <p>12 BY MR. MIRABELLA:</p> <p>13 Q. Is it common practice for</p> <p>14 members of the Community Standards Office or</p> <p>15 people in the Title IX Office to contact and</p> <p>16 discuss with the investigator the outcome of</p> <p>17 an investigation before it's been concluded?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you think that would be</p> <p>20 appropriate?</p> <p>21 A. To discuss the outcome before</p> <p>22 there is an outcome?</p> <p>23 Q. Correct.</p> <p>24 A. No.</p>

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<p style="text-align: right;">Page 278</p> <p>1 Q. You don't think that would be 2 appropriate? 3 A. Right. 4 Q. And why do you think that would 5 not be appropriate? 6 A. The investigator is the one 7 that has the information, all the information. 8 Q. And reaching out to them in 9 advance of the conclusion in an effort to 10 discuss possible outcome, gender bias or 11 gender or some other gender? 12 A. I don't know that. I did not 13 say that. 14 Q. You don't think it would be 15 appropriate? 16 A. Correct. 17 MR. MIRABELLA: I have no 18 further questions. 19 --- 20 (Whereupon, the deposition was 21 concluded at 1:54 p.m.) 22 --- 23 24</p> <p style="text-align: right;">Page 279</p> <p>1 CERTIFICATE 2 I, Debra J. Veneziale, a Court Reporter 3 and Notary Public, do hereby certify that the 4 proceedings, evidence, and objections upon the 5 deposition of KIERSTEN WHITE, Ed.D., are 6 contained fully and accurately in the 7 stenographic notes taken by me upon the 8 foregoing matter on July 19, 2018, and that 9 this is a true and correct transcript of the 10 same. 11 12  13 _____ 14 Debra J. Veneziale 15 Court Reporter 16 Notary Public 17 My Commission Expires 18 July 16, 2019 19 20 (The foregoing certification of this 21 transcript does not apply to any reproduction 22 of the same by any means, unless under the 23 direct control and/or supervision of the 24 certifying shorthand reporter.)</p>	<p style="text-align: right;">Page 280</p> <p>1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition over 4 carefully and make any necessary corrections. 5 You should state the reason in the appropriate 6 space on the Errata Sheet for any corrections 7 that are made. 8 After doing so, please sign the Errata 9 Sheet and date it. 10 You are signing same subject to the 11 changes you have noted on the Errata Sheet, 12 which will be attached to your deposition. 13 It is imperative that you return the 14 original Errata Sheet to the deposing attorney 15 within thirty (30) days of receipt of the 16 deposition transcript by you. If you fail to 17 do so, the deposition transcript may be deemed 18 to be accurate and may be used in court. 19 20 21 22 23 24</p> <p style="text-align: right;">Page 281</p> <p>1 ERRATA 2 ---- 3 PAGE LINE CHANGE 4 --- -- ----- 5 Reason for Change: _____ 6 --- -- ----- 7 Reason for Change: _____ 8 --- -- ----- 9 Reason for Change: _____ 10 --- -- ----- 11 Reason for Change: _____ 12 --- -- ----- 13 Reason for Change: _____ 14 --- -- ----- 15 Reason for Change: _____ 16 --- -- ----- 17 Reason for Change: _____ 18 19 20 Job No. PA2968430 21 22 23 24</p>
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1 ACKNOWLEDGMENT OF DEPONENT

2 I, _____, do hereby certify that I
3 have read the foregoing Pages __ to __ and
4 that the same is a correct transcript of the
5 answers given by me to the questions therein
6 propounded, except for the corrections or
7 changes in form or substance, if any, noted in
8 the attached Errata Sheet.

9 _____

10 DATE SIGNATURE

11

12 Subscribed and sworn to before me this

13 _____ day of _____ 2018.

14

15 My commission expires:

16 _____

17

18 _____

19 Notary Public

20

21 JOB NUMBER __ Job No. PA2968430 _____

22

23

24

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